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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

FILED
OCT 13 1991
106-11378-10051

In re)	Consolidated Case No. 1-91-00100
)	
)	
EAGLE-PICHER INDUSTRIES,)	Chapter 11
INC., <i>et al.</i> ,)	
)	JUDGE PERLMAN
Debtors.)	
)	
)	
)	

THIRD AMENDED CONSOLIDATED PLAN OF REORGANIZATION

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GLW.

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ARTICLE 1

DEFINITIONS	1
1.1 Defined Terms	1
1.1.1 <i>Administrative Expense</i>	1
1.1.2 <i>Administrative Expense Creditor</i>	1
1.1.3 <i>Affiliate</i>	2
1.1.4 <i>Affiliate Claims and Interests</i>	2
1.1.5 <i>Agent Bank</i>	2
1.1.6 <i>Allowed</i>	2
1.1.7 <i>Allowed Amount</i>	3
1.1.8 <i>Amended and Restated Articles of Incorporation</i>	3
1.1.9 <i>Amended and Restated Code of Regulations</i>	3
1.1.10 <i>Amplicon Lease Secured Claim</i>	3
1.1.11 <i>Articles of Incorporation</i>	4
1.1.12 <i>Asbestos and Lead PI Permanent Channeling Injunction</i>	4
1.1.13 <i>Asbestos and Lead PI Trust Agreement</i>	5
1.1.14 <i>Asbestos or Lead Contribution Claim</i>	5
1.1.15 <i>Asbestos PD Trust</i>	5
1.1.16 <i>Asbestos PD Trust Agreement</i>	5
1.1.17 <i>Asbestos PD Trust Funding Obligation</i>	5
1.1.18 <i>Asbestos PD Trust Share</i>	5
1.1.19 <i>Asbestos Personal Injury Claim</i>	5
1.1.20 <i>Asbestos Property Damage Claim</i>	6
1.1.21 <i>Asbestos Property Damage Contribution Claims</i>	6
1.1.22 <i>Available Cash</i>	6
1.1.23 <i>Ballot</i>	7
1.1.24 <i>Ballot Date</i>	7
1.1.25 <i>Bankruptcy Code</i>	7
1.1.26 <i>Bankruptcy Court</i>	7
1.1.27 <i>Bankruptcy Rules</i>	7
1.1.28 <i>Bearer Unsecured Debt Securities</i>	7
1.1.29 <i>Board of Directors</i>	7
1.1.30 <i>Business Day</i>	7
1.1.31 <i>Chapter 11 Cases</i>	7
1.1.32 <i>Claim</i>	8
1.1.33 <i>Claims Settlement Guidelines</i>	8
1.1.34 <i>Claims Trading Injunction</i>	8
1.1.35 <i>Confirmation Date</i>	8
1.1.36 <i>Confirmation Deadline</i>	8
1.1.37 <i>Confirmation Order</i>	8
1.1.38 <i>Connecticut Mutual Note Secured Claim</i>	9
1.1.39 <i>Contingent Claim</i>	9
1.1.40 <i>Convenience Claim</i>	9
1.1.41 <i>Creditor</i>	9

1.1.42	<i>Debtors</i>	9
1.1.43	<i>Debtors in Possession</i>	9
1.1.44	<i>Demand</i>	9
1.1.45	<i>Designated Real Property Tax Claim</i>	9
1.1.46	<i>DIP Credit Facility</i>	9
1.1.47	<i>DIP Credit Facility Claim</i>	10
1.1.48	<i>DIP Lenders</i>	10
1.1.49	<i>Disallowed Claim</i>	10
1.1.50	<i>Disputed Claim</i>	10
1.1.51	<i>Disputed Claim Amount</i>	10
1.1.52	<i>Distribution</i>	10
1.1.53	<i>Distribution Amounts</i>	10
1.1.54	<i>Distribution Value</i>	10
1.1.55	<i>District Court</i>	10
1.1.56	<i>Divestiture Notes</i>	10
1.1.57	<i>Eagle-Picher</i>	11
1.1.58	<i>Effective Date</i>	11
1.1.59	<i>Encumbrance</i>	11
1.1.60	<i>Entity</i>	11
1.1.61	<i>Environmental Claim</i>	11
1.1.62	<i>Environmental Settlement Agreement</i>	11
1.1.63	<i>Equity Interest</i>	11
1.1.64	<i>Equity Security Holders' Committee</i>	12
1.1.65	<i>Equity Value:</i>	12
1.1.66	<i>Estimated Amount</i>	12
1.1.67	<i>Existing Eagle-Picher Common Stock</i>	12
1.1.68	<i>Final Distribution Date</i>	12
1.1.69	<i>Final Order</i>	12
1.1.70	<i>First Fidelity Group</i>	12
1.1.71	<i>First Fidelity Lease Secured Claim</i>	12
1.1.72	<i>Fleet Credit Secured Claim</i>	13
1.1.73	<i>Future Claimants' Representative</i>	13
1.1.74	<i>GE Capital Secured Claim</i>	13
1.1.75	<i>Grove IRB Secured Claim</i>	13
1.1.76	<i>Henry County IRBs</i>	13
1.1.77	<i>Hillsdale</i>	13
1.1.78	<i>Houston IRBs</i>	13
1.1.79	<i>IBM Credit Corporation Secured Claim</i>	13
1.1.80	<i>Initial Distribution Date</i>	14
1.1.81	<i>Injury Claimants' Committee</i>	14
1.1.82	<i>Inter-Market Note Secured Claim</i>	14
1.1.83	<i>Internal Revenue Code</i>	14
1.1.84	<i>IRS</i>	14
1.1.85	<i>Kalkaska Claim</i>	14
1.1.86	<i>Lead Personal Injury Claim</i>	14
1.1.87	<i>Leesburg Note</i>	15

1.1.88	<i>Leesburg Secured Claim</i>	15
1.1.89	<i>Mansfield IRBs</i>	15
1.1.90	<i>MARCO</i>	15
1.1.91	<i>New Debt Securities</i>	15
1.1.92	<i>New Eagle-Picher Common Stock</i>	15
1.1.93	<i>Northwestern Group</i>	15
1.1.94	<i>Northwestern Group Secured Claims</i>	15
1.1.95	<i>Other Product Liability Tort Claim</i>	16
1.1.96	<i>Other Secured Claim</i>	16
1.1.97	<i>Penalty Claim</i>	16
1.1.99	<i>Petition Date</i>	16
1.1.100	<i>PI Protected Party</i>	16
1.1.101	<i>PI Trust</i>	17
1.1.102	<i>PI Trust Share</i>	17
1.1.103	<i>Plan</i>	17
1.1.104	<i>Priority Claim</i>	18
1.1.105	<i>Pro Rata Share</i>	18
1.1.106	<i>Product Liability Tort Claim</i>	18
1.1.107	<i>Record Date</i>	18
1.1.108	<i>Registered Unsecured Debt Securities</i>	18
1.1.109	<i>Related Parties</i>	18
1.1.110	<i>Reorganized Debtors</i>	19
1.1.111	<i>Reorganized Eagle-Picher</i>	19
1.1.112	<i>Retention Period</i>	19
1.1.113	<i>Schedules</i>	19
1.1.114	<i>Senior Unsecured Sinking Fund Debentures</i>	19
1.1.115	<i>Secured Claim</i>	19
1.1.117	<i>Supplemental Severance Program</i>	19
1.1.118	<i>Tax Claim</i>	19
1.1.119	<i>Tax Refund Notes</i>	19
1.1.121	<i>Trustees</i>	20
1.1.122	<i>Unliquidated Claim</i>	20
1.1.123	<i>Unsecured Claim</i>	20
1.1.124	<i>Unsecured Creditors' Committee</i>	20
1.1.125	<i>Unsecured Debt Securities</i>	20
1.1.126	<i>Unsecured Debt Securities Indenture</i>	20
1.1.127	<i>Unsecured Debt Securities Trustee</i>	20
1.1.128	<i>Vale EDBs</i>	20
1.1.129	<i>Vale EDBs Claims</i>	20
1.1.130	<i>Voting Procedures Order</i>	21
1.2	<i>Other Terms</i>	21
1.3	<i>Exhibits</i>	21

ARTICLE 2

PROVISIONS FOR PAYMENT OF ADMINISTRATIVE EXPENSES AND TAX CLAIMS	22
2.1 Payment of Allowed Administrative Expenses.	22
2.2 Compensation and Reimbursement	22
2.3 DIP Credit Facility Claim	22
2.4 Tax Claims	22

ARTICLE 3

CLASSIFICATION AND TREATMENT OF CLAIMS AND EQUITY INTERESTS	24
3.1 Summary.	24
3.2 Classification and Treatment	25
3.3 Compromise and Settlement Relating to the Amount of the PI Trust Share.	40
3.4 Controversy Concerning Impairment	41

ARTICLE 4

MODIFICATION, REVOCATION, OR WITHDRAWAL OF THE PLAN	42
4.1 Modification of the Plan	42
4.2 Revocation or Withdrawal	42
4.2.1 <i>Right to Revoke</i>	42
4.2.2 <i>Effect of Withdrawal or Revocation</i>	42
4.3 Amendment of Plan Documents	42

ARTICLE 5

PROVISIONS FOR TREATMENT OF DISPUTED CLAIMS	43
5.1 Objections to Claims; Prosecution of Disputed Claims	43
5.2 Amendment of Claims Settlement Guidelines.	43
5.3 Distributions on Account of Disputed Claims	43

ARTICLE 6

ACCEPTANCE OR REJECTION OF THE PLAN	44
6.1 Impaired Classes to Vote	44
6.2 Acceptance by Class of Claims.	44
6.3 Nonconsensual Confirmation	44

ARTICLE 7

IMPLEMENTATION OF THE PLAN	45
7.1 Amendment of Articles of Incorporation	45
7.2 Amendment of Code of Regulations	45
7.3 Distributions under the Plan	45

7.4	Timing of Distributions under the Plan	45
7.5	Manner of Payment under the Plan	46
7.6	Hart-Scott-Rodino Compliance	46
7.7	Fractional Shares or Other Distributions	46
7.8	Occurrence of the Confirmation Date.	46
7.9	Occurrence of the Effective Date	48
7.10	Distribution of Unclaimed Property	50
7.11	Management of the Reorganized Debtors	50
7.12	Supplemental Severance Program	50
7.13	Corporate Action	51
7.14	Effectuating Documents and Further Transactions	51
7.15	Dissolution of EDI, Inc	51
7.16	Allocation of Plan Distributions Between Principal and Interest . .	51
7.17	District Court Approval of the Confirmation Order	52

ARTICLE 8

EXECUTORY CONTRACTS AND UNEXPIRED LEASES		53
8.1	Assumption of Executory Contracts and Unexpired Leases	53
8.2	Rejection of Executory Contracts and Unexpired Leases	53
8.3	Claims Arising from Rejection or Termination	53
8.4	Previously Scheduled Contracts.	54
8.5	Insurance Policies	54
8.5.1	<i>Assumed Insurance Policies</i>	54
8.5.2	<i>Rejected Insurance Agreements</i>	55
8.5.3	<i>Reservation of Rights</i>	55
8.6	Indemnification and Reimbursement Obligations	55
8.7	Compensation and Benefit Programs	55

ARTICLE 9

RETENTION OF JURISDICTION	57
--	-----------

ARTICLE 10

TRANSFERS OF PROPERTY TO AND ASSUMPTION OF CERTAIN LIABILITIES BY THE PI TRUST		59
10.1	Transfer of Certain Property to the PI Trust	59
10.1.1	<i>Transfer of Books and Records</i>	59
10.1.2	<i>Transfer of Certain Insurance Rights</i>	59
10.1.3	<i>Transfer of Plan Consideration</i>	59
10.2	Assumption of Certain Liabilities by the PI Trust	60
10.3	Certain Property Held in Trust by the Reorganized Debtors	60
10.4	Authority of the Debtors	61

ARTICLE 11

TRANSFERS OF PROPERTY TO AND ASSUMPTION OF CERTAIN LIABILITIES BY THE ASBESTOS PD TRUST	62
11.1 Transfer of Certain Property to the Asbestos PD Trust	62
11.2 Assumption of Certain Liabilities by the Asbestos PD Trust	62
11.3 Certain Property Held in Trust by the Reorganized Debtors	62
11.4 Authority of the Debtors	63

ARTICLE 12

MISCELLANEOUS PROVISIONS	64
12.1 Payment of Statutory Fees	64
12.2 Discharge of the Debtors	64
12.3 Rights of Action	64
12.4 Third Party Agreements	64
12.5 Dissolution of Committees	65
12.6 Exculpation	65
12.7 Title to Assets; Discharge of Liabilities.	65
12.8 Surrender and Cancellation of Instruments	65
12.9 Notices	66
12.10 Headings	68
12.11 Severability.	68
12.12 Governing Law.	68
12.13 Filing of Additional Documents	68
12.14 Compliance with Tax Requirements	68
12.15 Exemption from Transfer Taxes	69

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THIRD AMENDED CONSOLIDATED PLAN OF REORGANIZATION

The Debtors, Future Claimants' Representative, and Injury Claimants' Committee (collectively, the "Plan Proponents") hereby collectively propose the following third amended consolidated plan of reorganization:

ARTICLE 1

DEFINITIONS

1.1 Defined Terms. As used herein, the following terms shall have the respective meanings specified below, unless the context otherwise requires:

1.1.1 *Administrative Expense:* Any Claim constituting a cost or expense of administration in the Chapter 11 Cases under section 503 of the Bankruptcy Code, including, without express or implied limitation, any actual and necessary costs and expenses of preserving the estate of the Debtors, any actual and necessary costs and expenses of operating the businesses of the Debtors, any indebtedness or obligations incurred or assumed by any of the Debtors in Possession in connection with the conduct of its or their business or for the acquisition or lease of property or the rendition of services, any allowed compensation or reimbursement of expenses under section 503(b)(2)-(5) of the Bankruptcy Code, and any fees or charges assessed against the estate of any of the Debtors under section 1930, chapter 123, title 28, United States Code.

1.1.2 *Administrative Expense Creditor:* Any Creditor entitled to payment of an Administrative Expense.

1.1.3 *Affiliate:* Any Entity that is an "affiliate" of any of the Debtors within the meaning of section 101(2) of the Bankruptcy Code except (i) American Imaging Services, Inc., (ii) Tri Sigma Corporation, and (iii) the PI Trust.

1.1.4 *Affiliate Claims and Interests:* All Claims against any of the Debtors held by an Affiliate or any interest in any of the Debtors other than in Eagle-Picher.

1.1.5 *Agent Bank:* NBD Bank, N.A., as agent under the DIP Credit Facility.

1.1.6 *Allowed:*

1.1.6.1 With respect to any Claim other than an Administrative Expense, Asbestos Property Damage Claim, or Product Liability Tort Claim, proof of which was filed within the applicable period of limitation fixed in accordance with Bankruptcy Rule 3003(c)(3) by the Bankruptcy Court, (i) as to which no objection to the allowance thereof has been interposed within the applicable period of limitation fixed by the Plan, the Bankruptcy Code, the Bankruptcy Rules, or a Final Order of the Bankruptcy Court, such Claim to the extent asserted in the proof of such Claim, or (ii) as to which an objection has been interposed, such Claim to the extent that it has been allowed in whole or in part by a Final Order of the Bankruptcy Court.

1.1.6.2 With respect to any Claim other than an Administrative Expense or Product Liability Tort Claim, as to which no proof of claim was filed within the applicable period of limitation fixed by the Plan, the Bankruptcy Code, the Bankruptcy Rules, or a Final Order of the Bankruptcy Court, such Claim to the extent that it has been listed by one of the Debtors in its Schedules as liquidated in amount and not disputed or contingent.

1.1.6.3 With respect to any Claim that is asserted to constitute an Administrative Expense (i) that represents an actual or necessary expense of preserving the estate or operating the business of the Debtors, any such Claim to the extent that the Debtors determine it to constitute an Administrative Expense, (ii) other than with respect to a Claim of a professional person employed under section 327 or 1103 of the Bankruptcy Code that is required to apply to the Bankruptcy Court for the allowance of compensation and reimbursement of expenses pursuant to section 330 of the Bankruptcy Code, that the Debtors do not believe constitutes an Administrative Expense, any such Claim to the extent it is allowed in whole or in part by a Final Order of the Bankruptcy Court and only to the extent that such allowed portion is deemed, pursuant to a Final Order of the Bankruptcy Court, to

constitute a cost or expense of administration under sections 503(b) and 507(a)(1) of the Bankruptcy Code, or (iii) that represents a Claim of a professional person employed under section 327 or 1103 of the Bankruptcy Code that is required to apply to the Bankruptcy Court for the allowance of compensation and reimbursement of expenses pursuant to section 330 of the Bankruptcy Code, such Claim to the extent it is allowed by a Final Order of the Bankruptcy Court under section 330 of the Bankruptcy Code.

1.1.6.4 With respect to any Asbestos Personal Injury Claim or Lead Personal Injury Claim, such Claim to the extent that it is allowed in accordance with the procedures established pursuant to the Asbestos and Lead PI Trust Agreement and the claims resolution procedures implemented in accordance therewith.

1.1.6.5 With respect to any Asbestos Property Damage Claim, proof of which was filed within the applicable period of limitation fixed in accordance with Bankruptcy Rule 3003(c)(3) by the Bankruptcy Court, such Claim to the extent that it is allowed in accordance with the claims resolution procedures established for Class 16 of the Plan and such other procedures as may be established in connection with the Asbestos PD Trust.

1.1.6.6 With respect to any Other Product Liability Tort Claim, such Claim to the extent (i) it is timely asserted against the Debtors or the Reorganized Debtors, as the case may be, and (ii) it is litigated to judgment in a liquidated amount by a Final Order of a court of competent jurisdiction or is liquidated by the agreement of the respective Reorganized Debtor and the holder of such Other Product Liability Tort Claim.

1.1.7 *Allowed Amount:* The lesser of (a) the dollar amount of an Allowed Claim or (b) the Estimated Amount of such Claim. Unless otherwise specified herein or by Final Order of the Bankruptcy Court, the Allowed Amount of an Allowed Claim shall not include interest accruing on such Allowed Claim from and after the Petition Date.

1.1.8 *Amended and Restated Articles of Incorporation:* The Articles of Incorporation, to be amended and restated in accordance with section 7.1 hereof, in substantially the form of Exhibit "1.1.8" to the Plan.

1.1.9 *Amended and Restated Code of Regulations:* The Code of Regulations of Eagle-Picher, to be amended and restated in accordance with section 7.2 hereof, in substantially the form of Exhibit "1.1.9" to the Plan.

1.1.10 *Amplicon Lease Secured Claim:* All Claims under or relating to that certain (a) Lease Agreement, dated February 2, 1990, between Transicoil Inc. and Amplicon, Inc. and Schedule No. 1 thereto and (b) Lease Guaranty, dated February 2, 1990, by Eagle-Picher, as guarantor, to the extent that

such Claims constitute Secured Claims under that certain Stipulation and Order for Adequate Protection, which was "so ordered" by the Bankruptcy Court on or about October 21, 1992.

1.1.11 *Articles of Incorporation:* The Articles of Incorporation of Eagle-Picher, as such Articles of Incorporation may be amended by the Amended and Restated Articles of Incorporation or otherwise.

1.1.12 *Asbestos and Lead PI Permanent Channeling Injunction:* An order or orders of the Bankruptcy Court or the District Court permanently and forever staying, restraining, and enjoining any Entity from taking any of the following actions for the purpose of, directly or indirectly, collecting, recovering, or receiving payment of, on, or with respect to any Asbestos Personal Injury Claims or Lead Personal Injury Claims (other than actions brought to enforce any right or obligation under the Plan, any Exhibits to the Plan, or any other agreement or instrument between any of the Debtors or the Reorganized Debtors and the PI Trust, which actions shall be in conformity and compliance with the provisions hereof):

a. commencing, conducting, or continuing in any manner, directly or indirectly, any suit, action, or other proceeding (including, without express or implied limitation, a judicial, arbitral, administrative, or other proceeding) in any forum against or affecting any PI Protected Party or any property or interests in property of any PI Protected Party;

b. enforcing, levying, attaching (including, without express or implied limitation, any prejudgment attachment), collecting, or otherwise recovering by any means or in any manner, whether directly or indirectly, any judgment, award, decree, or other order against any PI Protected Party or any property or interests in property of any PI Protected Party;

c. creating, perfecting, or otherwise enforcing in any manner, directly or indirectly, any Encumbrance against any PI Protected Party or any property or interests in property of any PI Protected Party;

d. setting off, seeking reimbursement of, contribution from, or subrogation against, or otherwise recouping in any manner, directly or indirectly, any amount against any liability owed to any PI Protected Party or any property or interests in property of any PI Protected Party; and

e. proceeding in any manner in any place with regard to any matter that is subject to resolution pursuant to the PI Trust, except in conformity and compliance therewith.

1.1.13 Asbestos and Lead PI Trust Agreement: That certain Eagle-Picher Industries, Inc. Personal Injury Settlement Trust Agreement, substantially in the form of Exhibit "1.1.13" to the Plan.

1.1.14 Asbestos or Lead Contribution Claim: Any right to payment, claim, remedy, liability, or Demand now existing or hereafter arising, whether or not such right, claim, remedy, liability, or Demand is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured, whether or not the facts of or legal bases for such right, claim, remedy, liability, or Demand are known or unknown, that is (i) held by (A) any Entity (other than a director or officer entitled to indemnification pursuant to section 8.6 of the Plan) who has been, is, or may be a defendant in an action seeking damages for death, bodily injury, or other personal damages (whether physical, emotional, or otherwise) to the extent caused or allegedly caused, directly or indirectly, by exposure to (x) asbestos or asbestos-containing products or (y) products that contain lead chemicals, or (B) any assignee or transferee of such Entity, and (ii) on account of alleged liability of any of the Debtors for reimbursement or contribution of any portion of any damages such Entity has paid or may pay to the plaintiff in such action.

1.1.15 Asbestos PD Trust: The trust established in accordance with the Asbestos PD Trust Agreement.

1.1.16 Asbestos PD Trust Agreement: That certain Eagle-Picher Industries, Inc. Asbestos Property Damage Settlement Trust Agreement, substantially in the form of Exhibit "1.1.16" to the Plan.

1.1.17 Asbestos PD Trust Funding Obligation: Either (a) if Class 16 votes to accept the Plan, cash in the amount of Three Million and 00/100 Dollars (\$3,000,000.00) or (b) if Class 16 votes to reject the Plan, the Pro Rata Share with respect to the Asbestos PD Trust Share of the Distribution Value, payable in an amount of the Senior Unsecured Sinking Fund Debentures equal to such Pro Rata Share.

1.1.18 Asbestos PD Trust Share: Either (a) if Class 16 votes to reject the Plan, a value to be established by the Bankruptcy Court as the estimated aggregate value of Asbestos Property Damage Claims as of the Petition Date or (b) if Class 16 votes to accept the Plan, \$0.00.

1.1.19 Asbestos Personal Injury Claim: Any right to payment, claim, remedy, liability, or Demand now existing or hereafter arising, whether or not such right, claim, remedy, liability, or Demand is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured, whether or not the facts of or legal bases for such right, claim, remedy, liability, or Demand are known or unknown, for, under any theory of law, equity, admiralty, or otherwise, death, bodily injury, or other personal

damages (whether physical, emotional, or otherwise) to the extent caused or allegedly caused, directly or indirectly, by exposure to asbestos or asbestos-containing products that were manufactured, sold, supplied, produced, distributed, released, or in any way marketed by any of the Debtors prior to the Petition Date, including, without express or implied limitation, any right, claim, remedy, liability, or Demand for compensatory damages (such as loss of consortium, wrongful death, survivorship, proximate, consequential, general, and special damages) and including punitive damages and any Asbestos or Lead Contribution Claim.

1.1.20 Asbestos Property Damage Claim: Any Claim against any of the Debtors, under any theory of law, equity, admiralty, or otherwise, for damages arising from the presence in buildings or other structures of asbestos or asbestos-containing products that was or were manufactured, sold, supplied, produced, distributed, or in any way marketed by any of the Debtors prior to the Petition Date, or for which any of the Debtors is otherwise liable due to the acts or omissions of any of the Debtors, including, without express or implied limitation, all such Claims for compensatory damages (such as proximate, consequential, general, and special damages) and punitive damages, but excluding Asbestos Property Damage Contribution Claims.

1.1.21 Asbestos Property Damage Contribution Claims: Any Claim against any of the Debtors that is (i) held by (A) any Entity (other than a director or officer entitled to indemnification pursuant to section 8.6 of the Plan) who has been, is, or may be a defendant in an action seeking damages arising from the presence in buildings or other structures of asbestos or asbestos-containing products that was or were manufactured, sold, supplied, produced, distributed, or in any way marketed by any of the Debtors prior to the Petition Date, or for which any of the Debtors is otherwise liable due to the acts or omissions of any of the Debtors or (B) any assignee or transferee of such Entity, and (ii) on account of alleged liability by any of the Debtors for reimbursement or contribution of any portion of any damages such Entity has paid or may pay to the plaintiff in such action.

1.1.22 Available Cash: All cash (other than restricted cash, including, without express or implied limitation, any cash held in escrow by or on behalf of the Debtors and cash held in the "Divestiture Account" maintained at Star Bank, N.A., Cincinnati) that would be shown on a balance sheet of Eagle-Picher and its consolidated subsidiaries as of the last day of the month in which the Effective Date occurs, prepared in accordance with generally accepted accounting principles, less the sum of the following as of such date: (i) Fifteen Million and 00/100 Dollars (\$15,000,000.00), (ii) the Allowed Amount of Allowed Administrative Expenses, (iii) a reasonable estimate by the Debtors of additional Administrative Expenses (such as professional fees and expenses) that may become Allowed thereafter, (iv) the Allowed Amount of Allowed Tax Claims, (v) a reasonable estimate by the Debtors of additional Tax Claims that may become Allowed thereafter, (vi) the DIP Credit Facility Claim, (vii) the Amplicon Lease Secured Claim, (viii) the First Fidelity Lease Secured Claim, (ix) the Fleet Credit Secured Claim, (x) the GE Capital Secured

Claim, (xi) the Grove IRB Secured Claim, (xii) the IBM Credit Corporation Secured Claim, (xiii) the Leesburg Secured Claim, (xiv) the Allowed Amount of Other Secured Claims, (xv) a reasonable estimate by the Debtors of additional Other Secured Claims that may become Allowed thereafter, (xvi) the Allowed Amount of Allowed Convenience Claims, (xvii) a reasonable estimate by the Debtors of additional Convenience Claims that may become Allowed thereafter, (xviii) if Class 16 votes to accept the Plan, the Asbestos PD Trust Funding Obligation, and (xix) the amount reasonably estimated by the Debtors to be the cost of curing any defaults under the executory contracts and unexpired leases to be assumed by the Debtors under the Plan.

1.1.23 *Ballot*: The form or forms distributed to holders of impaired Claims on which is to be indicated the acceptance or rejection of the Plan.

1.1.24 *Ballot Date*: The date set by the Bankruptcy Court by which all completed ballots must be received.

1.1.25 *Bankruptcy Code*: The Bankruptcy Reform Act of 1978, as amended, and as codified in title 11 of the United States Code, as applicable to the Chapter 11 Cases.

1.1.26 *Bankruptcy Court*: The United States District Court for the Southern District of Ohio, Western Division, having jurisdiction over the Chapter 11 Cases and, to the extent of any reference made pursuant to section 157 of title 28 of the United States Code, the unit of such District Court constituted pursuant to section 151 of title 28 of the United States Code.

1.1.27 *Bankruptcy Rules*: The Federal Rules of Bankruptcy Procedure, as amended, as applicable to the Chapter 11 Cases, including the Local Rules of the Bankruptcy Court.

1.1.28 *Bearer Unsecured Debt Securities*: Such of the Henry County IRBs, Houston IRBs, and the Mansfield IRBs that are not registered in the name of the holder (whether fully registered or as to principal only), including such of the Henry County IRBs, Houston IRBs, and the Mansfield IRBs as are registered to "bearer."

1.1.29 *Board of Directors*: The Board of Directors of Eagle-Picher, as it may exist from time to time.

1.1.30 *Business Day*: Any day on which commercial banks are required to be open for business in Cincinnati, Ohio.

1.1.31 *Chapter 11 Cases*: The cases of the Debtors commenced by the filing by each of the Debtors of a voluntary petition for relief

under chapter 11 of the Bankruptcy Code on the Petition Date and procedurally consolidated as Case No. 1-91-00100.

1.1.32 Claim: (a) A "claim," as defined in section 101(5) of the Bankruptcy Code, against any of the Debtors or Debtors in Possession, whether or not asserted, whether or not the facts of or legal bases therefor are known or unknown, and specifically including, without express or implied limitation, any rights under sections 502(g), 502(h), or 502(i) of the Bankruptcy Code, any claim of a derivative nature, any potential or unmatured contract claims, and any other Contingent Claim, and (b) any Environmental Claim or Product Liability Tort Claim, whether or not it constitutes a "claim," as defined in section 101(5) of the Bankruptcy Code.

1.1.33 Claims Settlement Guidelines: The settlement guidelines and authority contained in that certain Order Authorizing Debtors to Compromise or Settle Claims and Controversies, entered by the Clerk of the Bankruptcy Court on December 1, 1991, as amended in accordance with section 5.2 of the Plan.

1.1.34 Claims Trading Injunction: An order or orders of the Bankruptcy Court or the District Court permanently and forever staying, restraining, and enjoining any Entity from, directly or indirectly, purchasing, selling, transferring, assigning, conveying, pledging, or otherwise acquiring or disposing of any Asbestos Personal Injury Claim, Lead Personal Injury Claim, or Asbestos Property Damage Claim; *provided, however*, that the foregoing shall not apply to (i) the transfer of an Asbestos Personal Injury Claim, Lead Personal Injury Claim, or Asbestos Property Damage Claim to the holder of an Asbestos or Lead Contribution Claim or Asbestos Property Damage Contribution Claim, as the case may be, solely as a result of such holder's satisfaction of such Asbestos Personal Injury Claim, Lead Personal Injury Claim, or Asbestos Property Damage Contribution Claim, as the case may be, or (ii) the transfer of an Asbestos Personal Injury Claim, Lead Personal Injury Claim, or Asbestos Property Damage Claim by will or under the laws of descent and distribution. Any such order or orders will also provide that any action taken in violation thereof will be void *ab initio*.

1.1.35 Confirmation Date: The date on which the Confirmation Order is entered by the Clerk of the Bankruptcy Court.

1.1.36 Confirmation Deadline: The date that is one hundred fifty (150) days after the filing of the Plan with the Bankruptcy Court.

1.1.37 Confirmation Order: The order or orders of the Bankruptcy Court confirming the Plan in accordance with the provisions of chapter 11 of the Bankruptcy Code, which will contain, *inter alia*, the Asbestos and Lead PI Permanent Channeling Injunction and the Claims Trading Injunction.

1.1.38 Connecticut Mutual Note Secured Claim: All Claims under that certain (a) Note in the original principal amount of Six Million One Hundred Fourteen Thousand Six Hundred Fifty-Nine and 00/100 Dollars (\$6,114,659.00) issued by Hillsdale to Connecticut Mutual Life Insurance Company on or about July 29, 1988, (b) Agreement, dated July 29, 1988, between Hillsdale and Connecticut Mutual Life Insurance Company, and (c) Security Agreement, dated July 29, 1988, between Hillsdale, as grantor, and Connecticut Mutual Life Insurance Company, as lender and secured party, to the extent that such Claims constitute "Secured Claims" under that certain Stipulation and Order for Adequate Protection, which was "so ordered" by the Bankruptcy Court on November 25, 1991.

1.1.39 Contingent Claim: Any Claim, the liability for which attaches or is dependent upon the occurrence or happening, or is triggered by, an event, which event has not yet occurred, happened, or been triggered, as of the date on which such Claim is sought to be estimated or an objection to such Claim is filed, whether or not such event is within the actual or presumed contemplation of the holder of such Claim and whether or not a relationship between the holder of such Claim and any of the Debtors now or hereafter exists or previously existed.

1.1.40 Convenience Claim: As to each holder of an Unsecured Claim, (a) an Unsecured Claim held by such holder in an Allowed Amount of Five Hundred and 00/100 Dollars (\$500.00) or less, or (b) an Unsecured Claim of such holder the Allowed Amount of which has been reduced to Five Hundred and 00/100 Dollars (\$500.00) by the election of the holder thereof, as provided on the Ballot.

1.1.41 Creditor: Any Entity that holds a Claim against any of the Debtors or Debtors in Possession.

1.1.42 Debtors: Collectively, Eagle-Picher, Daisy Parts, Inc., Transicoil Inc., MARCO, EDI, Inc., Eagle-Picher Minerals, Inc., and Hillsdale.

1.1.43 Debtors in Possession: The Debtors, each in its respective capacity as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

1.1.44 Demand: A demand for payment, present or future, that (i) was not a Claim during the Chapter 11 Cases; (ii) arises out of the same or similar conduct or events that gave rise to the Claims addressed by the Asbestos and Lead PI Permanent Channeling Injunction; and (iii) pursuant to the Plan, is to be paid by the PI Trust.

1.1.45 Designated Real Property Tax Claim: Any Claim for taxes assessed against Parcel No. 27-B-040-0-00-001-0 in Lake County, Ohio.

1.1.46 DIP Credit Facility: The postpetition credit facility furnished to the Debtors in Possession by the DIP Lenders, the specific terms of

which are set forth in that certain Credit and Agency Agreement, dated May 29, 1991, as extended by that certain First Amendment to Credit Agreement, dated as of February 26, 1992, and as amended and restated by that certain Credit and Agency Agreement, dated November 5, 1992, as amended by that certain First Amendment to Credit Agreement, dated as of August 29, 1994.

1.1.47 *DIP Credit Facility Claim:* Collectively, all Claims of the DIP Lenders arising under the DIP Credit Facility.

1.1.48 *DIP Lenders:* NBD Bank, N.A., for itself and as agent, and Star Bank, N.A., Cincinnati, PNC Bank, Ohio, N.A., f/k/a The Central Trust Company, N.A., and The Bank of Nova Scotia.

1.1.49 *Disallowed Claim:* A Claim that is disallowed in its entirety by a Final Order of the Bankruptcy Court or such other court of competent jurisdiction.

1.1.50 *Disputed Claim:* A Claim that is neither an Allowed Claim nor a Disallowed Claim; *provided, however*, that no Environmental Claim shall be considered a Disputed Claim for the purposes of the Plan.

1.1.51 *Disputed Claim Amount:* The Estimated Amount of a Disputed Claim, or, if no Estimated Amount exists, the amount set forth in the proof of claim relating to such Disputed Claim as the liquidated amount of such Disputed Claim.

1.1.52 *Distribution:* The payment or distribution under the Plan of property or interests in property to the holders of Allowed Claims (other than Asbestos Personal Injury Claims, Lead Personal Injury Claims, and Asbestos Property Damage Claims) and to the PI Trust and the Asbestos PD Trust.

1.1.53 *Distribution Amount:* The amount of Distribution Value payable to a holder of an Allowed Environmental Claim pursuant to section 3.2.19 of the Plan, an Allowed Unsecured Claim in accordance with section 3.2.20, or a Specified Treatment Claim in accordance with section 3.2.21 of the Plan on the Initial Distribution Date or the Final Distribution Date, as the case may be.

1.1.54 *Distribution Value:* The sum of the Equity Value *plus* Available Cash *plus* the aggregate face amount of the New Debt Securities.

1.1.55 *District Court:* The United States District Court for the Southern District of Ohio, Western Division, having jurisdiction over the Chapter 11 Cases.

1.1.56 *Divestiture Notes:* Those certain Senior Unsecured Notes in the aggregate principal amount of Fifty Million and 00/100 Dollars

(\$50,000,000.00), bearing interest at a rate determined by McDonald & Company Securities, Inc., after consultation with the financial advisers to the Unsecured Creditors' Committee, on the Effective Date as the rate such Senior Unsecured Notes should bear in order to have a market value of one hundred percent (100%) of their principal amount on the Effective Date, and substantially in the form of Exhibit "1.1.56" to the Plan.

1.1.57 *Eagle-Picher:* Eagle-Picher Industries, Inc., an Ohio corporation.

1.1.58 *Effective Date:* The first Business Day after the date on which all of the conditions precedent to the effectiveness of the Plan specified in Section 7.9 have been satisfied or waived or, if a stay of the Confirmation Order is in effect on such date, the first Business Day after the expiration, dissolution, or lifting of such stay.

1.1.59 *Encumbrance:* With respect to any asset, any mortgage, lien, pledge, charge, security interest, assignment, or encumbrance of any kind or nature in respect of such asset (including, without express or implied limitation, any conditional sale or other title retention agreement, any security agreement, and the filing of, or agreement to give, any financing statement under the Uniform Commercial Code or comparable law of any jurisdiction).

1.1.60 *Entity:* An individual, corporation, partnership, association, joint stock company, joint venture, estate, trust, unincorporated organization, or government or any political subdivision thereof, or other person or entity.

1.1.61 *Environmental Claim:* Any Claim as to which the treatment thereof is set forth in (a) the Environmental Settlement Agreement or (b) an agreement by and between any of the Debtors and any party asserting a Claim against any of the Debtors relating to alleged contamination under the federal or state environmental laws or regulations, pursuant to which agreement all or a portion of such Claim (to the extent and subject to the limitations imposed by such agreement) may be asserted by the holder thereof after the Effective Date, to the extent that such agreement is approved and authorized by a Final Order of the Bankruptcy Court or otherwise in accordance with the Claims Settlement Guidelines.

1.1.62 *Environmental Settlement Agreement:* That certain Settlement Agreement, lodged with the Bankruptcy Court on March 23, 1995, by and between the Debtors and the parties listed on the signatory pages thereof, to the extent that such Settlement Agreement is approved and authorized by the Bankruptcy Court by a Final Order of the Bankruptcy Court.

1.1.63 *Equity Interest:* Any interest in Eagle-Picher represented by shares of Existing Eagle-Picher Common Stock.

1.1.64 Equity Security Holders' Committee: The Official Committee of Equity Security Holders consisting of Entities appointed as members in the Chapter 11 Cases in accordance with section 1102(a) of the Bankruptcy Code and their duly appointed successors, if any, as the same may be reconstituted from time to time.

1.1.65 Equity Value: The residual value of the equity of Reorganized Eagle-Picher (*i.e.*, after excluding the amount of cash to be distributed under the Plan and debt of the Reorganized Debtors), as determined by McDonald & Company Securities, Inc. as of the date of the commencement of the hearing on confirmation of the Plan, or as otherwise determined in a factual finding contained in the Confirmation Order. *after consultation with the financial advisers to the Unsecured Creditors' Committee,*

1.1.66 Estimated Amount: The estimated dollar value of an Unliquidated Claim, Disputed Claim, or Contingent Claim pursuant to section 502(c) of the Bankruptcy Code.

1.1.67 Existing Eagle-Picher Common Stock: Voting common stock of Eagle-Picher, with a par value of \$1.25 for each share, authorized pursuant to the Articles of Incorporation as in effect immediately prior to the Effective Date.

1.1.68 Final Distribution Date: A date on or after the Initial Distribution Date and after all Disputed Claims (other than Asbestos Personal Injury Claims, Lead Personal Injury Claims, and Asbestos Property Damage Claims) have become either Allowed Claims or Disallowed Claims that is selected by Reorganized Eagle-Picher in its discretion but, in any event, is no later than thirty (30) days thereafter, or such later date as the Bankruptcy Court may establish, upon request by Reorganized Eagle-Picher, for cause shown.

1.1.69 Final Order: An order as to which the time to appeal, petition for *certiorari*, or move for reargument or rehearing has expired and as to which no appeal, petition for *certiorari*, or other proceedings for reargument or rehearing shall then be pending or as to which any right to appeal, petition for *certiorari*, reargue, or rehear shall have been waived in writing in form and substance satisfactory to the Debtors or the Reorganized Debtors, as the case may be, and their counsel or, in the event that an appeal, writ of *certiorari*, or reargument or rehearing thereof has been sought, such order shall have been affirmed by the highest court to which such order was appealed, or *certiorari* has been denied or from which reargument or rehearing was sought, and the time to take any further appeal, petition for *certiorari* or move for reargument or rehearing shall have expired.

1.1.70 First Fidelity Group: First Fidelity Leasing Group, Inc.

1.1.71 First Fidelity Lease Secured Claim: All Claims under that certain Master Lease Finance Agreement, dated October 31, 1990, between Eagle-Picher and First Fidelity Group, to the extent that such Claims constituted

Secured Claims as of November 1, 1991, less the aggregate amount of payments made by Eagle-Picher to First Fidelity Group pursuant to that certain Stipulation and Order Setting Motions of First Fidelity Group, which was "so ordered" by the Bankruptcy Court and entered by the Bankruptcy Court on March 17, 1992.

1.1.72 *Fleet Credit Secured Claim*: All Claims under certain equipment schedules, dated January 25, 1988, March 24, 1988, May 19, 1988, and May 24, 1988, respectively, between MARCO and Fleet Credit Corporation, to the extent that such Claims constitute Secured Claims under that certain Stipulation and Order Settling Motions of Fleet Credit Corporation, which was "so ordered" by the Bankruptcy Court on July 20, 1992.

1.1.73 *Future Claimants' Representative*: The Legal Representative for Future Claimants appointed pursuant to the order of the Bankruptcy Court dated October 31, 1991.

1.1.74 *GE Capital Secured Claim*: The Secured Claim of General Electric Capital Corporation in the amount of Twenty-Two Thousand Four Hundred Fifty-Four and 89/100 Dollars (\$22,454.89), pursuant to that certain Stipulation and Order of Dismissal between Eagle-Picher and General Electric Capital Corporation, which was "so ordered" by the Bankruptcy Court on January 18, 1994.

1.1.75 *Grove IRB Secured Claim*: Claims under that certain (a) Note, dated August 9, 1989, from Eagle-Picher to the Grove Industrial Development Authority of Grove, Oklahoma, in the original principal amount of \$450,000.00 and (b) Mortgage, filed on August 9, 1989, in the State of Oklahoma, Delaware County, to the extent that such Claims constitute Secured Claims.

1.1.76 *Henry County IRBs*: The Henry County Development Authority Industrial Development Revenue Bonds (Eagle-Picher Industries, Inc. Project), Series 1981, in the original principal amount of Two Million Five Hundred Thousand and 00/100 Dollars (\$2,500,000.00).

1.1.77 *Hillsdale*: Hillsdale Tool & Manufacturing Co., a Michigan corporation.

1.1.78 *Houston IRBs*: The Port Development Corporation Industrial Development Revenue Bonds, Series 1980 (Eagle-Picher Industries, Inc., Project), in the original principal amount of Three Million and 00/100 Dollars (\$3,000,000.00).

1.1.79 *IBM Credit Corporation Secured Claim*: All Claims of IBM Credit Corporation under that certain Term Lease Master Agreement No. ZHOAO43 between The Ohio Rubber Co., a former division of Eagle-Picher, and IBM Credit Corporation, dated May 16, 1989, and the related Term Lease Supplements thereto, to the extent that such Claims constituted Secured Claims as of

November 1, 1991, *less* the aggregate amount of payments made by Eagle-Picher to IBM Credit Corporation pursuant to that certain Stipulation and Order Settling Motion of IBM Credit Corporation, which was "so ordered" by the Bankruptcy Court on January 15, 1992.

1.1.80 *Initial Distribution Date:* A date on or after the Effective Date that is selected by Reorganized Eagle-Picher in its discretion but, in any event, is within thirty (30) days after the Effective Date, or such later date as the Bankruptcy Court may establish, upon request by Reorganized Eagle-Picher, for cause shown.

1.1.81 *Injury Claimants' Committee:* The Official Committee of Injury Claimants, consisting of Entities appointed as members in the Chapter 11 Cases in accordance with section 1102(a) of the Bankruptcy Code and their duly appointed successors, if any, as the same may be reconstituted from time to time.

1.1.82 *Inter-Market Note Secured Claim:* All Claims under that certain (a) Note Agreement, dated July 7, 1988, between Inter-Market Capital Corporation and Eagle-Picher, (b) 9.8820% Promissory Note issued by Eagle-Picher to New England Mutual Life Insurance Company on or about July 7, 1988, and (c) Security Agreement, dated September 14, 1989, between Hillsdale, as grantor and guarantor, and New England Mutual Life Insurance Company, as lender and secured party, to the extent that such Claims constitute "Secured Claims" under that certain Stipulation and Order Providing Adequate Protection of Interests of New England Mutual Life Insurance Company, which was "so ordered" by the Bankruptcy Court on April 7, 1992, as modified and extended by that certain Stipulation Providing Adequate Protection of Interests of Certain Affiliates of Morgens, Waterfall, Vintiadis & Company, Inc., which was approved by the Bankruptcy Court by an order entered on February 14, 1995.

1.1.83 *Internal Revenue Code:* The Internal Revenue Code of 1986, as amended, and any applicable rulings, regulations (including temporary and proposed regulations) promulgated thereunder, judicial decisions, and notices, announcements, and other releases of the United States Treasury Department or the IRS.

1.1.84 *IRS:* The United States Internal Revenue Service.

1.1.85 *Kaskaska Claim:* Allowed Unsecured Claim in the amount of Two Million and 00/100 Dollars (\$2,000,000.00) pursuant to a settlement approved by an order of the Bankruptcy Court entered on or about November 24, 1993.

1.1.86 *Lead Personal Injury Claim:* Any right to payment, claim, remedy, liability, or Demand, now existing or hereafter arising, whether or not such right, claim, remedy, liability, or Demand is reduced to judgment, liquidated,

unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured, whether or not the facts of or legal bases for such right, claim, remedy, liability, or Demand are known or unknown, for, under any theory of law, equity, admiralty, or otherwise, death, bodily injury, or other personal damages (whether physical, emotional, or otherwise) to the extent caused or allegedly caused, directly or indirectly, by exposure to products that contained lead chemicals that were manufactured, sold, supplied, produced, distributed, or in any way marketed by any of the Debtors prior to the Petition Date, including, without express or implied limitation, any right, claim, remedy, liability, or Demand for compensatory damages (such as loss of consortium, wrongful death, survivorship, proximate, consequential, general, and special damages) and including punitive damages and any Asbestos or Lead Contribution Claim.

1.1.87 *Leesburg Note*: That certain note, dated as of October 4, 1977, from William Robert Jacobsen to Sun First National Bank of Leesburg, as Trustee of the J.D. Manly Construction Company Living Trust.

1.1.88 *Leesburg Secured Claim*: All Claims under (a) the Leesburg Note and (b) that certain mortgage, dated October 4, 1977, recorded at O.R. 638, pages 1587 through 1591, inclusive, of the Public Records of Lake County, Florida, as amended by a mortgage amendment, recorded at O.R. 691, page 55, of the Public Records of the Lake County, Florida, which note and mortgage were assumed by Eagle-Picher pursuant to a certain Real Estate Agreement, dated as of May 18, 1979, between Eagle-Picher and William R. Jacobsen.

1.1.89 *Mansfield IRBs*: The Industrial Development Revenue Bonds (Eagle-Picher Industries, Inc. Project) issued by the City of Mansfield, Ohio, in the original principal amount of Two Million and 00/100 Dollars (\$2,000,000.00).

1.1.90 *MARCO*: Michigan Automotive Research Corporation, a Michigan corporation.

1.1.91 *New Debt Securities*: Collectively, the Divestiture Notes, the Senior Unsecured Sinking Fund Debentures, and the Tax Refund Notes.

1.1.92 *New Eagle-Picher Common Stock*: Voting common stock, with no par value, of Reorganized Eagle-Picher from and after the Effective Date after giving effect to the Amended and Restated Articles of Incorporation.

1.1.93 *Northwestern Group*: Northwestern National Life Insurance Company, Northern Life Insurance Company, The North Atlantic Life Insurance Company of America, and American Investors Life Insurance Company.

1.1.94 *Northwestern Group Secured Claims*: All Claims under that certain (a) Note Purchase Agreement, dated April 21, 1989, between Eagle-Picher and the Northwestern Group and (b) Security Agreement, dated April 21,

1989, executed by Eagle-Picher in favor of the Northwestern Group, to the extent that such Claims constituted Secured Claims as of March 12, 1991, *less* the aggregate amount of payments made by Eagle-Picher to the Northwestern Group or any successor in interest to the Northwestern Group pursuant to that certain Stipulation and Order for Adequate Protection Payments to Northwestern Group, which was entered by the Bankruptcy Court on May 9, 1991.

1.1.95 *Other Product Liability Tort Claim:* Any Product Liability Tort Claim as to which the facts or existence of first become apparent to the holder of such Claim after the Effective Date other than Asbestos Personal Injury Claims and Lead Personal Injury Claims.

1.1.96 *Other Secured Claim:* Any Secured Claim other than the Amplicon Lease Secured Claim, the Connecticut Mutual Note Secured Claim, the Designated Real Property Tax Claim, the Grove IRB Secured Claim, the First Fidelity Lease Secured Claim, the Fleet Credit Secured Claim, the IBM Credit Corporation Secured Claim, the Inter-Market Note Secured Claim, the Leesburg Secured Claim, the Northwestern Group Secured Claim, and the Vale EDBs.

1.1.97 *Penalty Claim:* Any Claim (i) for any fine, penalty, collection fee, or forfeiture, or for multiple, exemplary, or punitive damages to the extent that such fine, penalty, forfeiture, or damages are not compensation for actual pecuniary loss suffered by the holder of such Claim, but not any such Claim to the extent that any of the Debtors has agreed to treat such Claim under the Plan as an Unsecured Claim, or (ii) that, pursuant to an order of the Bankruptcy Court, is subordinated for purposes of distribution to all Allowed Unsecured Claims.

1.1.98 *Per Share Value:* An amount equal to the Equity Value *divided by* ten million (10,000,000).

1.1.99 *Petition Date:* January 7, 1991.

1.1.100 *PI Protected Party:* Any of the following parties:

1.1.100.1 the Debtors;

1.1.100.2 the Reorganized Debtors;

1.1.100.3 an Affiliate;

1.1.100.4 any Entity that, pursuant to the Plan or after the Effective Date, becomes a direct or indirect transferee of, or successor to, any assets of any of the Debtors, the Reorganized Debtors, or the PI Trust (but only to the extent that liability is asserted to exist by reason of it becoming such a transferee or successor);

1.1.100.5 any Entity that, pursuant to the Plan or after the Effective Date, makes a loan to any of the Reorganized Debtors or the PI Trust or to a successor to, or transferee of, any assets of any of the Debtors, the Reorganized Debtors, or the PI Trust (but only to the extent that liability is asserted to exist by reason of such Entity becoming such a lender or to the extent any pledge of assets made in connection with such a loan is sought to be upset or impaired); or

1.1.100.6 any Entity to the extent he, she, or it is alleged to be directly or indirectly liable for the conduct of, Claims against, or Demands on any of the Debtors, the Reorganized Debtors, or the PI Trust on account of Asbestos Personal Injury Claims or Lead Personal Injury Claims by reason of one or more of the following:

1.1.100.6.1 such Entity's ownership of a financial interest in any of the Debtors or the Reorganized Debtors, a past or present affiliate of any of the Debtors or the Reorganized Debtors, or predecessor in interest of any of the Debtors or the Reorganized Debtors;

1.1.100.6.2 such Entity's involvement in the management of any of the Debtors or the Reorganized Debtors or any predecessor in interest of any of the Debtors or the Reorganized Debtors;

1.1.100.6.3 such Entity's service as an officer, director, or employee of any of the Debtors, the Reorganized Debtors, or Related Parties;

1.1.100.6.4 such Entity's provision of insurance to any of the Debtors, the Reorganized Debtors, or Related Parties; or

1.1.100.6.5 such Entity's involvement in a transaction changing the corporate structure, or in a loan or other financial transaction affecting the financial condition, of any of the Debtors, the Reorganized Debtors, or any of the Related Parties.

1.1.101 *PI Trust*: The trust established in accordance with the Asbestos and Lead PI Trust Agreement.

1.1.102 *PI Trust Share*: Two Billion and 00/100 Dollars (\$2,000,000,000).

1.1.103 *Plan*: This plan of reorganization, either in its present form or as it may be amended, supplemented, or otherwise modified from time to

time, and the exhibits and schedules to the foregoing, as the same may be in effect at the time such reference becomes operative.

1.1.104 *Priority Claim:* Any Claim to the extent such claim is entitled to priority in right of payment under section 507(a) of the Bankruptcy Code, other than an Administrative Expense, DIP Credit Facility Claim, or Tax Claim.

1.1.105 *Pro Rata Share:* Amount obtained by dividing the Allowed Amount of an Allowed Claim, or, in the case of the Distribution to the PI Trust or the Asbestos PD Trust, the PI Trust Share or the Asbestos PD Trust Share, respectively, by the sum of (a) the PI Trust Share, the Asbestos PD Trust Share, and all Allowed Unsecured Claims (other than Allowed Convenience Claims), and Allowed Environmental Claims, and (b) the Disputed Claim Amount of all Disputed Unsecured Claims (other than Disputed Convenience Claims).

1.1.106 *Product Liability Tort Claim:* Any right to payment, claim, remedy, liability, or Demand, now existing or hereafter arising, whether or not such right, claim, remedy, liability, or Demand is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured, whether or not the facts of or legal bases for such right, claim, remedy, liability, or Demand are known or unknown, for, under any theory of law, equity, admiralty, or otherwise, death, bodily injury, or other personal damages (whether physical, emotional, or otherwise) to the extent caused or allegedly caused, directly or indirectly, by exposure to any products or byproducts that were manufactured, sold, supplied, produced, released, distributed, or in any way marketed by any of the Debtors prior to the Petition Date, including, without express or implied limitation, any right, claim, remedy, liability, or Demand for compensatory damages (such as loss of consortium, wrongful death, survivorship, proximate, consequential, general, and special damages), including punitive damages, and including, without express or implied limitation, any Asbestos Personal Injury Claim or Lead Personal Injury Claim.

1.1.107 *Record Date:* The first Business Day that is five (5) days from and after the Confirmation Date.

1.1.108 *Registered Unsecured Debt Securities:* (a) The 9.5% Sinking Fund Debentures Due March 1, 2017, issued by Eagle-Picher, and (b) such of the Henry County IRBs, Mansfield IRBs, and the Houston IRBs that are not Bearer Unsecured Debt Securities.

1.1.109 *Related Parties:* (a) Any past or present affiliate of any of the Debtors or the Reorganized Debtors, (b) any predecessor in interest of any of the Debtors or the Reorganized Debtors, or (c) any Entity that owned a financial interest in any of the Debtors or the Reorganized Debtors, any past or present affiliate of any of the Debtors or the Reorganized Debtors, or any predecessor in interest of any of the Debtors or the Reorganized Debtors.

1.1.110 *Reorganized Debtors:* The Debtors, or any successors in interest thereto, from and after the Effective Date.

1.1.111 *Reorganized Eagle-Picher:* Eagle-Picher, or any successor in interest thereto, from and after the Effective Date.

1.1.112 *Retention Period:* Five (5) years from and after the Effective Date, or such shorter period as the Bankruptcy Court may set.

1.1.113 *Schedules:* The schedules of assets and liabilities and the statements of financial affairs filed by the Debtors in Possession with the Bankruptcy Court, as required by section 521 of the Bankruptcy Code and the Official Bankruptcy Forms of the Bankruptcy Rules, as such schedules and statements may be amended by the Debtors in Possession from time to time in accordance with Bankruptcy Rule 1009.

1.1.114 *Senior Unsecured Sinking Fund Debentures:* Those certain Senior Unsecured Sinking Fund Debentures in the aggregate principal amount of Two Hundred Fifty Million and 00/100 Dollars (\$250,000,000.00), bearing interest at a rate determined by McDonald & Company Securities, Inc. on the Effective Date as the rate such Senior Unsecured Sinking Fund Debentures should bear in order to have a market value of one hundred percent (100%) of their principal amount on the Effective Date, and substantially in the form set forth in Exhibit "1.1.114" to the Plan.

1.1.115 *Secured Claim:* Any Claim against any of the Debtors to the extent of the value of any interest in property of the estate of such Debtor securing such Claim, except for the DIP Credit Facility Claim.

1.1.116 *Specified Treatment Claims:* The Kalkaska Claim, the TLG Associates Claim, and any other Unsecured Claim that is (a) Allowed in connection with a settlement with one or more of the Debtors and (b) for which a minimum and maximum distribution under the Plan are specified.

1.1.117 *Supplemental Severance Program:* The Supplemental Severance Program approved by the Bankruptcy Court pursuant to its "Order on Motion Re Key Employee Retention, Etc.," entered on May 13, 1991.

1.1.118 *Tax Claim:* A Claim against any of the Debtors that is of a kind specified in section 507(a)(8) of the Bankruptcy Code.

1.1.119 *Tax Refund Notes:* Those certain Senior Unsecured Notes in an aggregate principal amount equal to the federal income tax refund estimated by Eagle-Picher to be due and owing to the Debtors as of the Effective Date, bearing interest at a rate determined by McDonald & Company Securities, Inc. on the Effective Date as the rate such Senior Unsecured Notes should bear in order to

have a market value of one hundred percent (100%) of their principal amount on the Effective Date, and in substantially the form of Exhibit "1.1.119" to the Plan.

1.1.120 *TLG Associates Claim*: Allowed Unsecured Claim in the amount of Two Hundred Fifteen Thousand Eight Hundred Thirty-Five and 00/100 (\$215,835.00) pursuant to a settlement approved by an order of the Bankruptcy Court dated December 29, 1995.

1.1.121 *Trustees*: Collectively, the persons serving as trustees of the PI Trust, pursuant to the terms of the Asbestos and Lead PI Trust Agreement.

1.1.122 *Unliquidated Claim*: Any Claim, the amount of liability for which has not been fixed, whether pursuant to agreement, applicable law, or otherwise, as of the date on which such Claim is sought to be estimated.

1.1.123 *Unsecured Claim*: Any Claim that is not an Administrative Expense, Tax Claim, Priority Claim, Asbestos Personal Injury Claim, Asbestos Property Damage Claim, Lead Personal Injury Claim, Environmental Claim, Other Product Liability Tort Claim, Designated Real Property Tax Claim, Affiliate Claims and Interests, Penalty Claim, or Secured Claim.

1.1.124 *Unsecured Creditors' Committee*: The Official Unsecured Creditors' Committee, consisting of Entities appointed as members in the Chapter 11 Cases in accordance with section 1102(a) of the Bankruptcy Code and their duly appointed successors, if any, as the same may be reconstituted from time to time.

1.1.125 *Unsecured Debt Securities*: Collectively, the Bearer Unsecured Debt Securities and the Registered Unsecured Debt Securities.

1.1.126 *Unsecured Debt Securities Indenture*: The respective indenture and any other agreements, documents, and instruments governing an issue of Unsecured Debt Securities, as amended, supplemented, or modified as of the date hereof.

1.1.127 *Unsecured Debt Securities Trustee*: The respective trustee acting pursuant to an Unsecured Debt Securities Indenture.

1.1.128 *Vale EDBs*: Those certain Ten Million and 00/100 Dollars (\$10,000,000.00) in original principal amount of Economic Development Bonds, Series XCVI, issued by the State of Oregon Economic Development Commission to finance the construction in the Harney and Malheur Counties of Oregon of certain facilities of Eagle-Picher Minerals, Inc.

1.1.129 *Vale EDBs Claims*: Claims with respect to the Vale EDBs.

1.1.130 Voting Procedures Order. An order of the Bankruptcy Court approving procedures relating to the solicitation and tabulation of votes with respect to the Plan.

1.2 Other Terms. Wherever from the context it appears appropriate, each term stated in either the singular or the plural shall include the singular and the plural, and pronouns stated in the masculine, feminine, or neuter gender shall include the masculine, the feminine, and the neuter. The words "herein," "hereof," "hereto," "hereunder," and others of similar import refer to the Plan as a whole and not to any particular section, subsection, or clause contained in the Plan. An initially capitalized term used herein that is not defined herein shall have the meaning ascribed to such term, if any, in the Bankruptcy Code, unless the context shall otherwise require.

1.3 Exhibits. All Exhibits to the Plan shall be contained in a separate Exhibit Volume, which shall be filed with the Clerk of the Bankruptcy Court not less than twenty (20) days prior to the commencement of the hearing on confirmation of the Plan. Such Exhibits may be inspected in the office of the Clerk of the Bankruptcy Court during normal hours of operation of the Bankruptcy Court. Holders of Claims and Equity Interests may obtain a copy of such Exhibit Volume, once filed, from Eagle-Picher by a written request sent to the following address:

Eagle-Picher Industries, Inc.
P.O. Box 1847
Cincinnati, OH 45202

ARTICLE 2

PROVISIONS FOR PAYMENT OF ADMINISTRATIVE EXPENSES AND TAX CLAIMS

2.1 Payment of Allowed Administrative Expenses. The Allowed Amount of each Allowed Administrative Expense shall be paid in full, in cash, on the Effective Date; *provided, however*, that (i) Administrative Expenses representing (a) liabilities incurred in the ordinary course of business by any of the Debtors in Possession or (b) liabilities arising under loans or advances to the Debtors in Possession, whether or not incurred in the ordinary course of business, shall be assumed and paid by the respective Reorganized Debtors in accordance with the terms and conditions of the particular transactions and any agreements relating thereto, (ii) the Bankruptcy Court shall fix in the Confirmation Order a date for the filing of and a date to hear and determine all applications for final allowances of compensation or reimbursement of expenses under section 330 of the Bankruptcy Code, and (iii) if an Administrative Expense, other than a trade payable incurred in the ordinary course of business by any of the Debtors in Possession and other than a DIP Credit Facility Claim, is a Contingent Claim or Unliquidated Claim as of the Effective Date, the Debtors may request the Bankruptcy Court to estimate such Administrative Expense pursuant to section 502(c) of the Bankruptcy Code, in which case the Allowed Amount of such Administrative Expense shall be paid in full, in cash, on the date that an order estimating such Administrative Expense becomes a Final Order.

2.2 Compensation and Reimbursement. The Allowed Amount of all Administrative Expenses arising under section 503(b)(2), 503(b)(3), 503(b)(4), or 503(b)(5) of the Bankruptcy Code shall be paid in full, in cash, (a) upon the later of (i) the Effective Date and (ii) the date upon which the order with respect to the allowance or disallowance of any such Administrative Expense becomes a Final Order, or (b) upon such other terms as may be mutually agreed upon between each Administrative Expense Creditor and the Reorganized Debtors.

2.3 DIP Credit Facility Claim. On the Effective Date, the DIP Credit Facility Claim shall be paid, in full, in cash. Unless otherwise agreed by the DIP Lenders, to the extent that any letters of credit issued pursuant to the DIP Credit Facility remain outstanding on the Effective Date, the Debtors will pay to the Agent Bank, for the ratable benefit of the DIP Lenders, cash in an amount equal to the face amount of such letters of credit, which shall be held by the Agent Bank for the repayment of all amounts due in respect of such letters of credit.

2.4 Tax Claims. Each holder of an Allowed Tax Claim shall be paid the Allowed Amount of its Allowed Tax Claim, at the option of the Reorganized Debtors, either (a) in full, in cash, on the Effective Date or (b) upon such other terms

as may be mutually agreed upon between each holder of a Tax Claim and the Reorganized Debtors.

ARTICLE 3

CLASSIFICATION AND TREATMENT OF CLAIMS AND EQUITY INTERESTS

3.1 Summary. Claims and Equity Interests are classified for all purposes, including, without express or implied limitation, voting, confirmation, and distribution pursuant to the Plan, as follows:

CLASS		STATUS
Class 1:	Priority Claims	Unimpaired — not entitled to vote.
Class 2:	Amplicon Lease Secured Claim	Unimpaired — not entitled to vote.
Class 3:	Connecticut Mutual Note Secured Claim	Impaired — entitled to vote
Class 4:	Designated Real Property Tax Claims	Impaired — entitled to vote.
Class 5:	First Fidelity Lease Secured Claim	Unimpaired — not entitled to vote.
Class 6:	Fleet Credit Secured Claim	Unimpaired — not entitled to vote.
Class 7:	GE Capital Secured Claim	Unimpaired — not entitled to vote.
Class 8:	Grove IRB Secured Claim	Unimpaired — not entitled to vote.
Class 9:	IBM Credit Corporation Secured Claim	Unimpaired — not entitled to vote.
Class 10:	Inter-Market Note Secured Claim	Impaired — entitled to vote.
Class 11:	Leesburg Secured Claim	Unimpaired — not entitled to vote.
Class 12:	Northwestern Group Secured Claims	Impaired — entitled to vote.
Class 13:	Vale EDBs Claims	Unimpaired — not entitled to vote.
Class 14:	Other Secured Claims	Unimpaired — not entitled to vote.

Class 15:	Convenience Claims	Unimpaired — not entitled to vote.
Class 16:	Asbestos Property Damage Claims	Impaired — entitled to vote.
Class 17:	Asbestos Personal Injury Claims and Lead Personal Injury Claims	Impaired — entitled to vote.
Class 18:	Other Product Liability Tort Claims	Impaired — entitled to vote.
Class 19:	Environmental Claims	Impaired — entitled to vote.
Class 20:	Unsecured Claims other than Convenience Claims and Specified Treatment Claims	Impaired — entitled to vote.
Class 21:	Specified Treatment Claims	Impaired — entitled to vote.
Class 22:	Affiliate Claims and Interests	Unimpaired — not entitled to vote.
Class 23:	Penalty Claims	Impaired — deemed to reject the Plan.
Class 24:	Equity Interests	Impaired — deemed to reject the Plan.

3.2 Classification and Treatment.

3.2.1 Class 1. Priority Claims.

1. *Classification:* Class 1 consists of all Allowed Priority Claims.
2. *Treatment:* Each holder of an Allowed Priority Claim shall be paid the Allowed Amount of its Allowed Priority Claim, in full, in cash, on the Effective Date.
3. *Status:* Class 1 is not impaired. The holders of the Claims in Class 1 are deemed to accept the Plan and, accordingly, are not entitled to vote to accept or reject the Plan.

3.2.2 Class 2. Amplicon Lease Secured Claim.

1. *Classification:* Class 2 consists of the Amplicon Lease Secured Claim.

2. *Treatment:* At the option of the Debtors and in accordance with section 1124 of the Bankruptcy Code, the Amplicon Lease Secured Claim shall be treated in one of the following ways:

a. The legal, equitable and contractual rights to which the Amplicon Lease Secured Claim entitles the holder thereof shall be unaltered.

or

b. Notwithstanding any contractual provision or applicable law that entitles the holder of the Amplicon Lease Secured Claim to demand or receive payment of such Claim prior to the stated maturity of such Claim from and after the occurrence of a default under the agreements governing or instruments evidencing the Amplicon Lease Secured Claim, the Amplicon Lease Secured Claim shall be reinstated, and the Debtors shall (i) cure all defaults that occurred before or from and after the Petition Date (other than defaults of a kind specified in section 365(b)(2) of the Bankruptcy Code), (ii) reinstate the maturity of the Amplicon Lease Secured Claim as such maturity existed prior to the occurrence of such default, (iii) compensate the holder of such Claim for any damages incurred as a consequence of any reasonable reliance by such holder on such contractual provision or such applicable law, and (iv) not otherwise alter the legal, equitable, or contractual rights to which the holder of the Amplicon Lease Secured Claim is entitled.

or

c. On the Effective Date, the holder of the Amplicon Lease Secured Claim shall be paid the Allowed Amount of the Amplicon Lease Secured Claim, in full, in cash.

3. *Status:* Class 2 is not impaired. The holder of the Claim in Class 2 is deemed to accept the Plan and, accordingly, is not entitled to vote to accept or reject the Plan.

3.2.3 Class 3. Connecticut Mutual Note Secured Claim.

1. *Classification:* Class 3 consists of the Connecticut Mutual Note Secured Claim.
2. *Treatment:* The holder of the Connecticut Mutual Note Secured Claim will retain the liens securing the Connecticut Mutual Note Secured Claim and, on the Effective Date, will receive a note, substantially in the form of Exhibit "1.1.38" to the Plan, which shall (i) have a maturity date of June 1, 2001, (ii) bear interest at the rate of 10.0% per annum, (iii) have a principal amount equal to the amount of the Connecticut Mutual Note Secured Claim, and (iv) provide for equal monthly payments of principal and interest in an amount sufficient to fully amortize the principal amount of such note over the term of such note.
3. *Status:* Class 3 is impaired. To the extent and in the manner provided in the Voting Procedures Order, the holder of the Claim in Class 3 is entitled to vote to accept or reject the Plan.

3.2.4 Class 4. Designated Real Property Tax Claim.

1. *Classification:* Class 4 consists of the Designated Real Property Tax Claim.
2. *Treatment:* On the Effective Date, the property securing the Designated Real Property Tax Claim shall be transferred to the holder of the Designated Real Property Tax Claim in full and complete satisfaction of the Designated Real Property Tax Claim. Notwithstanding the foregoing, if the property securing the Designated Real Property Tax Claim is sold prior to the Effective Date, the Designated Real Property Tax Claim shall be paid in full, in cash, on the date on which such sale is consummated.
3. *Status:* Class 4 is impaired. To the extent and in the manner provided in the Voting Procedures Order, the holder of the Claim in Class 4 is entitled to vote to accept or reject the Plan.

3.2.5 Class 5. First Fidelity Lease Secured Claim.

1. *Classification:* Class 5 consists of the First Fidelity Lease Secured Claim.
2. *Treatment:* On the Effective Date, the holder of the First Fidelity Lease Secured Claim shall be paid the Allowed Amount of the First Fidelity Lease Secured Claim, in full, in cash.

3. *Status:* Class 5 is unimpaired. The holder of the Claim in Class 5 is deemed to accept the Plan and, accordingly, is not entitled to vote to accept or reject the Plan.

3.2.6 Class 6. Fleet Credit Secured Claim.

1. *Classification:* Class 6 consists of the Fleet Credit Secured Claim.

2. *Treatment:* On the Effective Date, the holder of the Fleet Credit Secured Claim shall be paid the Allowed Amount of the Fleet Credit Secured Claim, in full, in cash.

3. *Status:* Class 6 is unimpaired. The holder of the Claim in Class 6 is deemed to accept the Plan and, accordingly, is not entitled to vote to accept or reject the Plan.

3.2.7 Class 7. GE Capital Secured Claim.

1. *Classification:* Class 7 consists of the GE Capital Secured Claim.

2. *Treatment:* On the Effective Date, the holder of the GE Capital Secured Claim shall be paid the Allowed Amount of the GE Capital Secured Claim, in full, in cash.

3. *Status:* Class 7 is not impaired. The holder of the Claim in Class 7 is deemed to accept the Plan and, accordingly, is not entitled to vote to accept or reject the Plan.

3.2.8 Class 8. Grove IRB Secured Claim.

1. *Classification:* Class 8 consists of the Grove IRB Secured Claim.

2. *Treatment:* On the Effective Date, the holder of the Grove IRB Secured Claim shall be paid the Allowed Amount of the Grove IRB Secured Claim, in full, in cash.

3. *Status:* Class 8 is not impaired. The holder of the Claim in Class 8 is deemed to accept the Plan and, accordingly, is not entitled to vote to accept or reject the Plan.

3.2.9 Class 9. IBM Credit Corporation Secured Claim.

1. *Classification:* Class 9 consists of the IBM Credit Corporation Secured Claim.

2. *Treatment:* On the Effective Date, the holder of the IBM Credit Corporation Secured Claim shall be paid the Allowed Amount of the IBM Credit Corporation Secured Claim, in full, in cash.

3. *Status:* Class 9 is not impaired. The holder of the Claim in Class 9 is deemed to accept the Plan, and, accordingly, is not entitled to vote to accept or reject the Plan.

3.2.10 Class 10. Inter-Market Note Secured Claim.

1. *Classification:* Class 10 consists of the Inter-Market Note Secured Claim.

2. *Treatment:* The holder of the Inter-Market Note Secured Claim will retain the liens securing the Inter-Market Note Secured Claim and, on the Effective Date, will receive a note, substantially in the form of Exhibit "1.1.82" to the Plan, which shall (i) have a maturity date of June 1, 2001, (ii) bear interest at the rate of 10.0% per annum, (iii) have a principal amount equal to the amount of the Inter-Market Note Secured Claim, and (iv) provide for equal monthly payments of principal and interest in an amount sufficient to fully amortize the principal amount of such note over the term of such note.

3. *Status:* Class 10 is impaired. To the extent and in the manner provided in the Voting Procedures Order, the holder of the Claim in Class 10 is entitled to vote to accept or reject the Plan.

3.2.11 Class 11. Leesburg Secured Claim.

1. *Classification:* Class 11 consists of the Leesburg Secured Claim.

2. *Treatment:* On the Effective Date, the holder of the Leesburg Secured Claim shall be paid the Allowed Amount of the Leesburg Secured Claim, in full, in cash.

3. *Status:* Class 11 is not impaired. The holder of the Claim in Class 11 is deemed to accept the Plan and, accordingly, is not entitled to vote to accept or reject the Plan.

3.2.12 Class 12. Northwestern Group Secured Claims.

1. *Classification:* Class 12 consists of the Northwestern Group Secured Claims.

2. *Treatment:* The holders of the Northwestern Group Secured Claims will retain the liens securing the Northwestern Group Secured Claims and, on the Effective Date, will each receive a note, substantially in the form of Exhibit "1.1.94" to the Plan, which shall (i) have a maturity date of May 1, 2001, (ii) bear interest at the rate of 10.0% per annum, (iii) have a principal amount equal to the amount of such holder's share of the Northwestern Group Secured Claims, and (iv) provide for equal monthly payments of principal and interest in an amount sufficient to fully amortize the principal amount of such note over the term of such note.

3. *Status:* Class 12 is impaired. To the extent and in the manner provided in the Voting Procedures Order, the holders of the Claims in Class 12 are entitled to vote to accept or reject the Plan.

3.2.13 Class 13. Vale EDBs Claims.

1. *Classification:* Class 13 consists of the Vale EDBs Claims.

2. *Treatment:* Notwithstanding any contractual provision or applicable law that entitles the holders of the Vale EDBs Claims to demand or receive payment of such Claims prior to the stated maturity of such Claims from and after the occurrence of a default under the agreements or instruments evidencing the Vale EDBs Claims, the Vale EDBs shall be reinstated, and the Debtors shall (i) cure all defaults that occurred before or from and after the Petition Date (other than defaults of a kind specified in section 365(b)(2) of the Bankruptcy Code), (ii) reinstate the maturity of the Vale EDBs as such maturity existed prior to the occurrence of such default, (iii) compensate the holders of the Vale EDBs Claims for any damages incurred as a consequence of any reasonable reliance by such holders on such contractual provision or such applicable law, and (iv) not otherwise alter the legal, equitable, or contractual rights to which the holders of the Vale EDBs Claims are entitled. Entry of the Confirmation Order shall constitute a finding that no amounts are payable and owing under subsections (i) and (iii) hereof.

3. *Status:* Class 13 is not impaired. The holders of the Claims in Class 13 are deemed to accept the Plan and, accordingly, are not entitled to vote to accept or reject the Plan.

3.2.14 Class 14. Other Secured Claims.

1. *Classification:* Class 14 consists of all Allowed Other Secured Claims. Although placed in one class for purposes of convenience, each Allowed Other Secured Claim shall be treated as though in a separate class for all purposes under the Plan.

2. *Treatment:* At the option of the Debtors and in accordance with section 1124 of the Bankruptcy Code, each Allowed Other Secured Claim shall be treated in one of the following ways:

a. The legal, equitable and contractual rights to which such Allowed Other Secured Claim entitles the holder of such Claim shall be unaltered.

or

b. Notwithstanding any contractual provision or applicable law that entitles the holder of an Allowed Other Secured Claim to demand or receive payment of such Claim prior to the stated maturity of such Claim from and after the occurrence of a default under the agreements governing or instruments evidencing such Claim, such Claim shall be reinstated, and the Debtors shall (i) cure all defaults that occurred before or from and after the Petition Date (other than defaults of a kind specified in section 365(b)(2) of the Bankruptcy Code), (ii) reinstate the maturity of such Claim as such maturity existed prior to the occurrence of such default, (iii) compensate the holder of such Claim for any damages incurred as a consequence of any reasonable reliance by such holder on such contractual provision or such applicable law, and (iv) not otherwise alter the legal, equitable, or contractual rights to which the holder of such Claim is entitled.

or

c. On the later of the Effective Date or the date on which an Other Secured Claim becomes Allowed, the holder of such Allowed Other Secured Claim shall be paid the Allowed Amount of such Claim, in full, in cash. Interest accruing on any Allowed Other Secured Claim after the Petition Date shall be accrued at the rate of eight percent (8%) per annum.

3. *Status:* Class 14 is not impaired. The holders of the Claims in Class 14 are deemed to accept the Plan and, accordingly, are not entitled to vote to accept or reject the Plan.

3.2.15 Class 15. Convenience Claims.

1. *Classification:* Class 15 consists of all Allowed Convenience Claims.
2. *Treatment:* Each holder of an Allowed Convenience Claim shall be paid the Allowed Amount of its Allowed Convenience Claim, in full, in cash on the Effective Date.
3. *Election:* Any holder of an Unsecured Claim that desires treatment of such Claim as a Convenience Claim shall make such election on the Ballot to be provided to holders of Unsecured Claims and return such Ballot to the address specified therein on or before the Ballot Date. Any election made after the Ballot Date shall not be binding on the Debtors unless the Ballot Date is expressly waived in writing by the Debtors with respect to any such Claim.
4. *Status:* Class 15 is not impaired. The holders of the Claims in Class 15 are deemed to accept the Plan and, accordingly, are not entitled to vote to accept or reject the Plan.

3.2.16 Class 16. Asbestos Property Damage Claims.

1. *Classification:* Class 16 consists of all Asbestos Property Damage Claims.
2. *Treatment:* All Asbestos Property Damage Claims shall be determined and paid pursuant to the terms, provisions, and procedures of the Asbestos PD Trust and the Asbestos PD Trust Agreement and the claims resolution procedures adopted pursuant thereto and referred to in subsection 4. of this section 3.2.16. The Asbestos PD Trust will be funded in accordance with the provisions of section 11.1 of the Plan. The sole recourse of the holder of an Asbestos Property Damage Claim shall be the Asbestos PD Trust, and such holder shall have no right whatsoever at any time to assert its Asbestos Property Damage Claim against the Reorganized Debtors. Without limiting the foregoing, on the Effective Date, all entities shall be permanently and forever stayed, restrained, and enjoined from taking any of the following actions for the purpose of, directly or indirectly, collecting, recovering, or receiving payment of, on, or with respect to any Asbestos Property Damage Claims (other than actions brought to enforce any right or obligation under the Plan, any Exhibits to the Plan, or any other agreement or instrument between any of the Debtors or the Reorganized Debtors and the Asbestos PD Trust, which actions shall be in conformity and compliance with the provisions hereof):
 - a. commencing, conducting, or continuing in any manner, directly or indirectly, any suit, action, or other proceeding (including, without express or implied limitation, a judicial, arbitral, administrative, or other proceeding) in any forum against or affecting

any of the Reorganized Debtors or any property or interests in property of any of the Reorganized Debtors;

b. enforcing, levying, attaching (including, without express or implied limitation, any prejudgment attachment), collecting, or otherwise recovering by any means or in any manner, whether directly or indirectly, any judgment, award, decree, or other order against any of the Reorganized Debtors or any property or interests in property of any of the Reorganized Debtors;

c. creating, perfecting, or otherwise enforcing in any manner, directly or indirectly, any Encumbrance against any of the Reorganized Debtors or any property or interests in property of any of the Reorganized Debtors;

d. setting off, seeking reimbursement of, contribution from, or subrogation against, or otherwise recouping in any manner, directly or indirectly, any amount against any liability owed to any of the Reorganized Debtors or any property or interests in property of any of the Reorganized Debtors; and

e. proceeding in any manner in any place with regard to any matter that is subject to resolution pursuant to the Asbestos PD Trust, except in conformity and compliance therewith.

3. *Selection of Trustees for Asbestos PD Trust:* If Class 16 votes to accept the Plan, then the trustees for the Asbestos PD Trust will be selected by the representatives of each group for which a class proof of claim asserting Asbestos Property Damage Claims was timely filed in the Chapter 11 Cases. If Class 16 votes to reject the Plan, Eagle-Picher will select one or more trustees for the Asbestos PD Trust, by notice filed with the Bankruptcy Court on or before ten (10) days prior to the Confirmation Hearing. Eagle-Picher reserves the right to select Reorganized Eagle-Picher as the sole trustee of the Asbestos PD Trust if Class 16 votes to reject the Plan.

4. *Claims Resolution Procedures:* If Class 16 votes to accept the Plan, then the trustees for the Asbestos PD Trust will establish procedures for the allowance and payment of Asbestos Property Damage Claims. If Class 16 votes to reject the Plan, then the claims resolution procedures attached to the Plan as Exhibit "1.1.6.5" will govern and control in all respects the allowance and payment of Asbestos Property Damage Claims.

5. *Status:* Class 16 is impaired. To the extent and in the manner provided in the Voting Procedures Order, the holders of the Claims in Class 16 are entitled to vote to accept or reject the Plan.

3.2.17 Class 17. Asbestos Personal Injury Claims and Lead Personal Injury Claims.

1. *Classification:* Class 17 consists of all Asbestos Personal Injury Claims and Lead Personal Injury Claims.

2. *Treatment:* All Asbestos Personal Injury Claims and Lead Personal Injury Claims shall be determined and paid pursuant to the terms, provisions, and procedures of the PI Trust and the Asbestos and Lead PI Trust Agreement. The PI Trust will be funded in accordance with the provisions of section 10.1 of the Plan. The sole recourse of the holder of an Asbestos Personal Injury Claim or Lead Personal Injury Claim shall be the PI Trust, and such holder shall have no right whatsoever at any time to assert its Asbestos Personal Injury Claim or Lead Personal Injury Claim, as the case may be, against any PI Protected Party. Without limiting the foregoing, on the Effective Date, all Entities shall be permanently and forever stayed, restrained, and enjoined from taking any of the following actions for the purpose of, directly or indirectly, collecting, recovering, or receiving payment of, on, or with respect to any Asbestos Personal Injury Claims or Lead Personal Injury Claims (other than actions brought to enforce any right or obligation under the Plan, any Exhibits to the Plan or any other agreement or instrument between any of the Debtors, or the Reorganized Debtors and the PI Trust, which actions shall be in conformity and compliance with the provisions hereof):

a. commencing, conducting, or continuing in any manner, directly or indirectly, any suit, action, or other proceeding (including, without express or implied limitation, a judicial, arbitral, administrative, or other proceeding) in any forum against or affecting any PI Protected Party or any property or interests in property of any PI Protected Party;

b. enforcing, levying, attaching (including, without express or implied limitation, any prejudgment attachment), collecting, or otherwise recovering by any means or in any manner, whether directly or indirectly, any judgment, award, decree, or other order against any PI Protected Party or any property or interests in property of any PI Protected Party;

c. creating, perfecting, or otherwise enforcing in any manner, directly or indirectly, any Encumbrance against any PI Protected Party or any property or interests in property of any PI Protected Party;

d. setting off, seeking reimbursement of, contribution from, or subrogation against, or otherwise recouping in any manner, directly or indirectly, any amount against any liability

owed to any PI Protected Party or any property or interests in property of any PI Protected Party; and

e. proceeding in any manner in any place with regard to any matter that is subject to resolution pursuant to the PI Trust, except in conformity and compliance therewith.

Nothing contained herein shall constitute or be deemed a waiver of any claim, right, or cause of action that the Debtors, the Reorganized Debtors, or the PI Trust may have against any Entity in connection with or arising out of an Asbestos Personal Injury Claim or Lead Personal Injury Claim.

3. *Discounted Payment Election:* The Ballot to be distributed to holders of Asbestos Personal Injury Claims will permit such holders to elect to have their Asbestos Personal Injury Claims processed and paid pursuant to the discounted payment procedure set forth in the Asbestos and Lead PI Trust Agreement and the claims resolution procedures adopted pursuant thereto.

4. *Status:* Class 17 is impaired. To the extent and in the manner provided in the Voting Procedures Order, the holders of the Claims in Class 17 are entitled to vote to accept or reject the Plan.

3.2.18 Class 18. Other Product Liability Tort Claims.

1. *Classification:* Class 18 consists of all Other Product Liability Tort Claims.

2. *Treatment:* Each holder of an Allowed Other Product Liability Tort Claim shall receive consideration having a value, determined by Reorganized Eagle-Picher in good faith, equal to the value that would have been distributed to such holder if such Allowed Other Product Liability Tort Claim had been an Allowed Unsecured Claim on the Final Distribution Date; *provided, however*, that, in determining the Pro Rata Share that would have been payable if such Allowed Other Product Liability Tort Claim had been an Allowed Unsecured Claim, no adjustments shall be made to the denominator of the equation specified in section 1.1.105; *provided further*, that, if any Other Product Liability Tort Claim becomes known prior to the Final Distribution Date, the Other Product Liability Tort Claim shall be treated as an Unsecured Claim for all purposes. The treatment provided herein is not, and shall not be deemed to constitute, a waiver of any of the Debtors' applicable non-bankruptcy defenses, including statute of limitations.

3. *Status:* Class 18 is impaired. To the extent and in the manner provided in the Voting Procedures Order, the holders of the Claims in Class 18 are entitled to vote to accept or reject the Plan.

3.2.19 Class 19. Environmental Claims.

1. *Classification:* Class 19 consists of all Environmental Claims.

2. *Treatment:* Each holder of an Environmental Claim shall be entitled to treatment of its Environmental Claim and receive such consideration as is provided in the settlement agreement applicable to such Environmental Claim. Without limiting the provisions of such settlement agreement, each holder of an Environmental Claim, to the extent any portion of such Environmental Claim becomes Allowed prior to any Distribution, shall receive on the Initial Distribution Date and the Final Distribution Date its Pro Rata Share of the Distribution Value *less* the aggregate value of consideration (computed as provided herein) previously distributed on account of such Allowed portion of the Environmental Claim in any Distribution made prior thereto. The sole recourse of the holders of Environmental Claims against the Debtors, the Reorganized Debtors, or any property or interests in property of the Debtors or the Reorganized Debtors shall be in accordance with the rights of such holders set forth in such settlement agreement. Nothing contained herein or in any settlement agreement relating to an Environmental Claim shall constitute or be deemed a waiver of any claim, right, or cause of action that the Debtors or the Reorganized Debtors may have against any Entity that is not a party to such settlement agreement. As to any portion of an Environmental Claim that becomes Allowed prior to the Initial Distribution Date or the Final Distribution Date, the holder of such Environmental Claim shall receive its Distribution Amount in consideration consisting of Available Cash in an amount equal to one-half (1/2) of the Distribution Amount and Divestiture Notes having an aggregate principal amount equal to one-half (1/2) of the Distribution Amount.

3. *Status:* Class 19 is impaired. The holders of the Claims in Class 19 are entitled to vote to accept or reject the Plan.

3.2.20 Class 20. Unsecured Claims other than Convenience Claims and the Specified Treatment Claims.

1. *Classification:* Class 20 consists of Unsecured Claims other than Convenience Claims and Specified Treatment Claims.

2. *Treatment:* Each holder of an Allowed Unsecured Claim in Class 20 shall receive on the Initial Distribution Date and the Final Distribution Date its Pro Rata Share of the Distribution Value *less* the aggregate value of consideration (computed as provided herein) previously distributed on account of such Allowed Unsecured Claim in any Distribution made prior thereto. On the Initial Distribution Date and the Final Distribution Date, each such holder's Distribution Amount shall be paid in consideration consisting of Available Cash in an amount

equal to one-half ($\frac{1}{2}$) of the Distribution Amount and Divestiture Notes having an aggregate principal amount equal to one-half ($\frac{1}{2}$) of the Distribution Amount.

3. *Cancellation of Unsecured Debt Securities:* As of the Effective Date, all notes, agreements, and securities evidencing Unsecured Claims and the rights of the holders thereof thereunder, including, without express or implied limitation, the Unsecured Debt Securities and each Unsecured Debt Securities Indenture, shall be cancelled and deemed null and void and of no further force and effect, and the holders thereof shall have no rights, and such instruments shall evidence no rights, except the right to receive the Distributions provided herein. Notwithstanding the foregoing, such cancellation shall not impair the rights and duties under each Unsecured Debt Securities Indenture as between the Unsecured Debt Securities Trustee and the beneficiaries of the trust created thereby.

4. *Surrender of Bearer Unsecured Debt Securities:* Distributions with respect to the Bearer Unsecured Debt Securities shall be made to the Unsecured Debt Securities Trustee for payment to the individual holders of Bearer Unsecured Debt Securities. No holder of Bearer Unsecured Debt Securities shall be entitled to any Distribution unless and until such holder shall have first surrendered or caused to be surrendered to the Unsecured Debt Securities Trustee the original Bearer Unsecured Debt Securities held by it or, in the event that such Unsecured Debt Securities have been lost, destroyed, stolen, or mutilated, executed and delivered an affidavit of loss and indemnity with respect thereto in the form customarily utilized for such purposes that is reasonably satisfactory to the Debtors and the Unsecured Debt Securities Trustee and, in the event either the Debtors or the Unsecured Debt Securities Trustee requests, furnished a bond in form and substance (including, without express or implied limitation, amount) reasonably satisfactory to the Debtors or the Unsecured Debt Securities Trustee, as the case may be. Promptly upon the surrender of any Bearer Unsecured Debt Securities, the Unsecured Debt Securities Trustee shall cancel such securities and deliver such cancelled securities to the Reorganized Debtors or otherwise dispose of such securities in such manner as the Reorganized Debtors may request. In accordance with section 1143 of the Bankruptcy Code, any holder of Bearer Unsecured Debt Securities that fails to surrender its Bearer Unsecured Debt Securities or deliver an affidavit of loss and indemnity as provided herein within the Retention Period shall be deemed to have forfeited all rights and claims against the Debtors and the Reorganized Debtors and shall not participate in any Distribution on account of the Bearer Unsecured Debt Securities. As soon as practicable after the receipt of the foregoing from the holder of Bearer Unsecured Debt Securities, the Unsecured Debt Securities Trustee shall make the Distribution provided hereunder. Thereafter, the Unsecured Debt Securities Trustee shall maintain a register of the holders of Bearer Unsecured Debt Securities that have complied with the foregoing provisions of this paragraph and the amount of Bearer Unsecured Debt Securities held by each such holder, and any further Distribution made shall be made by the Unsecured Debt Securities Trustee to the holders reflected on such register.

5. *Record Date for Registered Unsecured Debt Securities:* As at the close of business on the Record Date, the transfer ledgers for the Registered Unsecured Debt Securities shall be closed, and there shall be no further changes in the record holders of any Registered Unsecured Debt Securities. Distributions with respect to the Registered Unsecured Debt Securities shall be made to the Unsecured Debt Securities Trustee for payment to the record holders of any Registered Unsecured Debt Securities as reflected on the transfer ledgers for the Registered Unsecured Debt Securities as at the close of business on the Record Date. The Debtors or the Reorganized Debtors, as the case may be, and the Unsecured Debt Securities Trustee shall have no obligation to recognize any transfer of the Registered Unsecured Debt Securities that is not recorded on the transfer ledgers for the Registered Unsecured Debt Securities as of the close of business on the Record Date. The Debtors or the Reorganized Debtors, as the case may be, and the Unsecured Debt Securities Trustee shall be entitled instead to recognize and deal with, for all purposes hereunder, only those record holders stated on the transfer ledgers of the Registered Unsecured Debt Securities Trustee as of the close of business on the Record Date.

6. *Expiration of the Retention Period:* Upon the expiration of the Retention Period, all monies or other property held for distribution by the Unsecured Debt Securities Trustee shall be returned to the Reorganized Debtors by the Unsecured Debt Securities Trustee, free and clear of any claim or interest of any nature whatsoever, including, without express or implied limitation, escheat rights of any governmental unit under applicable law.

7. *Compensation of the Unsecured Debt Securities Trustee:* The Unsecured Debt Securities Trustee shall be compensated by the Reorganized Debtors for services rendered from and after the Effective Date, including the reasonable compensation, disbursements, and expenses of the agents and legal counsel of the Unsecured Debt Securities Trustee in connection with the performance of its duties under this section and shall be indemnified by the Reorganized Debtors for any loss, liability, or expense incurred by it in connection with the performance of such duties to the same extent and in the same manner as provided in the Unsecured Debt Securities Indenture.

8. *Interest:* Interest shall neither accrue nor be payable with respect to Allowed Unsecured Claims.

9. *Status:* Class 20 is impaired. To the extent and in the manner provided in the Voting Procedures Order, the holders of the Claims in Class 20 are entitled to vote to accept or reject the Plan.

3.2.21 Class 21. Specified Treatment Claims.

1. *Classification:* Class 21 consists of the Specified Treatment Claims.

2. **Treatment:** Each holder of a Specified Treatment Claim shall receive on the Initial Distribution Date and the Final Distribution Date its Pro Rata Share of the Distribution Value *less* the aggregate value of consideration (computed as provided herein) previously distributed on account of such Specified Treatment Claim in any Distribution made prior thereto. On the Initial Distribution Date and the Final Distribution Date, each such holder's Distribution Amount shall be paid in consideration consisting of Available Cash in an amount equal to one-half (½) of the Distribution Amount and Divestiture Notes having an aggregate principal amount equal to one-half (½) of the Distribution Amount. Notwithstanding the foregoing, the aggregate value of the Distributions on account of such Specified Treatment Claim shall be no less than the amount set forth in the settlement agreement pursuant to which such Specified Treatment Claim became Allowed and shall not exceed the amount set forth in such settlement agreement.

3. **Status:** Class 21 is impaired. To the extent and in the manner provided in the Voting Procedures Order, the holders of the Claims in Class 21 are entitled to vote to accept or reject the Plan.

3.2.22 Class 22. Affiliate Claims and Interests.

1. **Classification:** Class 22 consists of Affiliate Claims and Interests.

2. **Treatment:** At the option of the Debtors and in accordance with section 1124 of the Bankruptcy Code, the Allowed Affiliate Claims and Interests shall be treated in one of the following ways:

a. The legal, equitable and contractual rights to which such Allowed Affiliate Claims and Interests entitle the holder of any such Claims and Interests shall be unaltered.

or

b. Notwithstanding any contractual provision or applicable law that entitles the holder of Allowed Affiliate Claims and Interests to demand or receive payment thereof prior to the stated maturity thereof from and after the occurrence of a default under the agreements governing or instruments evidencing such Allowed Affiliate Claims and Interests, such Affiliate Claims and Interests shall be reinstated, and the Debtors shall (i) cure all defaults that occurred before or from and after the Petition Date (other than defaults of a kind specified in section 365(b)(2) of the Bankruptcy Code), (ii) reinstate the maturity of such Affiliate Claims and Interests as such maturity existed prior to the occurrence of such default, (iii) compensate the holders of such Affiliate Claims and Interests for any damages incurred as a consequence of any reasonable reliance by such holder on such

contractual provision or such applicable law, and (iv) not otherwise alter the legal, equitable, or contractual rights to which the holders of such Affiliate Claims and Interests are entitled.

or

c. On the later of the Effective Date or the date on which any Affiliate Claims and Interests become Allowed, the holder of such Allowed Affiliate Claims and Interests shall be paid the Allowed Amount of such Affiliate Claims and Interests, in full, in cash.

3. *Status:* Class 22 is not impaired. The holders of Claims and Interests in Class 22 are deemed to accept the Plan and, accordingly, are not entitled to vote to accept or reject the Plan.

3.2.23 Class 23. Penalty Claims.

1. *Classification:* Class 23 consists of Penalty Claims.

2. *Treatment:* The holders of Penalty Claims will not receive or retain any interest or property under the Plan.

3. *Status:* Class 23 is impaired. The holders of Claims in Class 23 are deemed to reject the Plan and, accordingly, are not entitled to vote to accept or reject the Plan.

3.2.24 Class 24. Equity Interests.

1. *Classification:* Class 24 consists of Equity Interests.

2. *Treatment:* The holders of Equity Interests will not receive or retain any interest or property under the Plan. On the Effective Date, the certificates that previously evidenced ownership of Existing Eagle-Picher Common Stock shall be cancelled and shall be null and void, and the holders thereof shall have no rights, and such certificates shall evidence no rights.

3. *Status:* Class 24 is impaired. The holders of Equity Interests are deemed to reject the Plan and, accordingly, are not entitled to vote to accept or reject the Plan.

3.3 Compromise and Settlement Relating to the Amount of the PI Trust Share. The use of the amount of Two Billion and 00/100 Dollars (\$2,000,000,000.00) as the PI Trust Share under the Plan represents a compromise and settlement between the Plan Proponents and the Unsecured Creditors' Committee

regarding the issues raised in the appeal by the Unsecured Creditors' Committee of the Bankruptcy Court's Decision and Order on 1) Debtors' Motion to Estimate Liability and 2) Motion of UCC for Information Gathering, dated December 4, 1995, and as amended on December 14, 1995, which appeal shall be deemed dismissed with prejudice on the Effective Date. The Unsecured Creditors' Committee will take whatever actions are reasonably necessary to effectuate such dismissal.

3.4 Controversy Concerning Impairment. In the event of a controversy as to whether any class of Claims or Equity Interests is impaired under the Plan, the Bankruptcy Court shall, after notice and a hearing, determine such controversy prior to the Confirmation Date.

ARTICLE 4

MODIFICATION, REVOCATION, OR WITHDRAWAL OF THE PLAN

4.1 Modification of the Plan. The Plan Proponents may, upon the unanimous written consent of all Plan Proponents, alter, amend, or modify the Plan under section 1127(a) of the Bankruptcy Code at any time prior to the Confirmation Date so long as the Plan, as modified, meets the requirements of sections 1122 and 1123 of the Bankruptcy Code. After the Confirmation Date and prior to the Effective Date, the Plan Proponents, upon the unanimous written consent of all Plan Proponents, may alter, amend, or modify the Plan in accordance with section 1127(b) of the Bankruptcy Code.

4.2 Revocation or Withdrawal.

4.2.1 Right to Revoke. The Plan may be revoked or withdrawn prior to the Confirmation Date by either (a) after the Confirmation Deadline, any of the Plan Proponents or (b) upon the unanimous written consent of all Plan Proponents, the Plan Proponents.

4.2.2 Effect of Withdrawal or Revocation. If the Plan is revoked or withdrawn prior to the Confirmation Date, then the Plan shall be deemed null and void. In such event, nothing contained herein shall be deemed to constitute a waiver or release of any claims by the Debtors or any other Entity or to prejudice in any manner the rights of the Debtors or any Entity in any further proceedings involving the Debtors.

4.3 Amendment of Plan Documents. From and after the Effective Date, the authority to amend, modify, or supplement the Exhibits to the Plan and any documents attached to such Exhibits shall be as provided in such Exhibits and their respective attachments.

ARTICLE 5

PROVISIONS FOR TREATMENT OF DISPUTED CLAIMS

5.1 Objections to Claims; Prosecution of Disputed Claims.

The Reorganized Debtors shall object to the allowance of Claims filed with the Bankruptcy Court (other than Asbestos Personal Injury Claims, Lead Personal Injury Claims, and Asbestos Property Damage Claims) with respect to which the Reorganized Debtors dispute liability in whole or in part. Notwithstanding the foregoing, the Reorganized Debtors, at their option, may continue to prosecute objections to Lead Personal Injury Claims and Asbestos Property Damage Claims if such objections are pending as of the Effective Date. To the extent that objections to Lead Personal Injury Claims are not pending as of the Effective Date or the Reorganized Debtors elect not to prosecute pending objections to Lead Personal Injury Claims, the PI Trust shall be vested with the complete power and authority to file and prosecute any such objections. To the extent that objections to Asbestos Property Damage Claims are not pending as of the Effective Date or the Reorganized Debtors elect not to prosecute pending objections to Asbestos Property Damage Claims, the Asbestos PD Trust shall be vested with the complete power and authority to file and prosecute any such objections. All objections that are filed and prosecuted by the Reorganized Debtors as provided herein shall be litigated to Final Order by the Reorganized Debtors or compromised and settled in accordance with the Claims Settlement Guidelines. Unless otherwise provided herein or ordered by the Bankruptcy Court, all objections by the Reorganized Debtors to Claims shall be served and filed no later than one week after the Effective Date.

5.2 Amendment of Claims Settlement Guidelines. On the Effective Date, the Claims Settlement Guidelines shall be amended as set forth on Exhibit "5.2" to the Plan.

5.3 Distributions on Account of Disputed Claims.

Notwithstanding Section 3.2 hereof, a Distribution shall only be made by the Reorganized Debtors to the holder of a Disputed Claim when, and to the extent that, such Disputed Claim becomes Allowed. No interest shall be paid on account of Disputed Claims that later become Allowed except to the extent that payment of interest is required under section 506(b) of the Bankruptcy Code. No Distribution shall be made with respect to all or any portion of any Disputed Claim pending the entire resolution thereof in the manner prescribed by section 5.1 hereof.

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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

In re:)	Chapter 11
)	
EaglePicher Holdings, Inc., et al.,)	Jointly Administered
)	Case No. 05-12601
Debtors.)	
)	Judge J. Vincent Aug, Jr.

DEBTORS' SECOND AMENDED JOINT PLAN OF REORGANIZATION

EaglePicher Holdings, Inc. and certain of its affiliates¹ (each, a "Debtor," and collectively, the "Debtors"), debtors and debtors in possession, jointly with the Official Committee of Unsecured Creditors appointed in the above-referenced cases (the "Creditors' Committee"), propose the following second amended joint plan of reorganization for the Debtors:

**ARTICLE 1
DEFINITIONS**

1.01 Terms Defined in the Plan. Capitalized terms used in the Plan shall have the respective meanings specified in Exhibit A to the Plan.

1.02 Terms Defined in the Bankruptcy Code. Capitalized terms used in the Plan which are not defined in Exhibit A to the Plan but which are defined in the Bankruptcy Code shall have the respective meanings specified in the Bankruptcy Code.

1.03 Rules of Interpretation. For purposes of the Plan: (i) whenever it appears appropriate from the context, each term, whether stated in the singular or the plural, shall include both the singular and the plural; (ii) any reference in the Plan to a contract, instrument, release or other agreement or document being in a particular form or on particular terms and conditions means such document substantially in such form or substantially on such terms and conditions; (iii) any reference in the Plan to an existing document or exhibit means such document or exhibit, as it may have been or may be amended, modified or supplemented; (iv) the words "herein," "hereof," "hereto," "hereunder" and others of similar import refer to the Plan in its entirety rather than to only a particular portion of the Plan; and (v) the rules of construction set

¹ The affiliated debtor entities are EaglePicher Incorporated, EaglePicher Technologies LLC, EaglePicher Filtration & Minerals, LLC, EaglePicher Pharmaceutical Services, LLC, EaglePicher Automotive, Inc., Daisy Parts, Inc. and Carpenter Enterprises Limited.

forth in section 102 of the Bankruptcy Code shall apply, except to the extent inconsistent with the express provisions of this Section 1.03 of the Plan.

1.04 Exhibits. Exhibits to the Plan may be amended from time to time, and both original and amended Exhibits may be filed with the Bankruptcy Court from time to time, but in no event later than five (5) Business Days before the date set for the hearing on the confirmation of the Plan or such other date as may be authorized by the Bankruptcy Court. Current copies of Exhibits may be obtained by reference to the Bankruptcy Court's files or shall be provided to parties in interest upon written request to the Debtors.

1.05 Time Periods. Except as specifically provided in the Plan, Bankruptcy Rule 9006(a) applies to the computation of any period of time prescribed or allowed by the Plan, and Bankruptcy Rules 9006(b) and 9006(c) apply respectively to the enlargement or reduction of any period of time prescribed or allowed by the Plan.

ARTICLE 2

PROVISIONS FOR PAYMENT OF ADMINISTRATIVE EXPENSES, PRIORITY TAX CLAIMS, CERTAIN PRIORITY CLAIMS AND DEBTOR IN POSSESSION FINANCING

2.01 Administrative Expenses. Except as otherwise provided in Section 2.02 of the Plan, Allowed administrative expenses of the kind specified in section 503(b) of the Bankruptcy Code shall be paid by the Debtors in the ordinary course of their business, (i) in Cash, on or as soon as practicable after the Effective Date; (ii) in accordance with the commercial credit terms extended by the creditor of such obligations; (iii) upon such terms as may be agreed between the Debtors and the holder of such administrative expense; (iv) for employee or retiree obligations addressed by Sections 5.14 and 10.01 of the Plan, in accordance with the provisions of the applicable collective bargaining agreement or pension plan or (v) otherwise as required by law; *provided, however*, that pursuant to the Purchase Agreements, the Debtors' obligations for goods and services arising after the Filing Date in the ordinary course of the Debtors' business shall be assumed and paid by the applicable NewCos in Cash within ten (10) days after the Effective Date.

2.02 Fees of Professionals. Professionals employed at the expense of the Estates of the Debtors and entities which may be entitled to an allowance of fees and expenses from the Estates of the Debtors incurred prior to the Effective Date pursuant to sections 503(b)(2) through 503(b)(6) of the Bankruptcy Code shall be paid by the Debtors or the Plan Trust, in Cash, as soon as practicable after the order approving such allowance of compensation or reimbursement of expenses becomes a Final Order. All professional fees for services rendered on behalf of the Debtors, the Estates or the Plan Trust in connection with the Chapter 11 Cases and the Plan after the Effective Date including, without limitation, those relating to the occurrence of the Effective Date, the prosecution of causes of action preserved under the Plan, and the resolution of disputed Claims, may be paid by the Plan Trustee upon receipt of an invoice for such services, or on such other terms as the Plan Trustee may agree to, without the need for further Bankruptcy Court authorization or entry of a Final Order. If the Plan Trustee and any professional cannot agree on

the amount of post-Effective Date fees and expenses to be paid to such professional, such amount is to be determined by the Bankruptcy Court.

2.03 Indenture Trustee Fees. All reasonable compensation, fees, expenses, disbursements and indemnity claims incurred by the Pre-Petition Note Indenture Trustee before, on and after the Petition Date (the "Indenture Trustee Fees"), including the reasonable fees, expenses and disbursements of agents and counsel retained by the Indenture Trustee, shall be paid in Cash on the Effective Date by the Debtors, without the need for application to, or approval of, any court. Payment of the Indenture Trustee Fees is subject to the review of the Debtors and the Creditors' Committee. The Bankruptcy Court shall resolve any objections of the Debtors and the Creditors' Committee with regard to the Indenture Trustee Fees that are not capable of resolution. To the extent that the Pre-Petition Note Indenture Trustee provides services related to distributions pursuant to the Plan, the Pre-Petition Note Indenture Trustee will receive from the Plan Trustee, without further Bankruptcy Court approval, reasonable compensation for such services and reimbursement of reasonable expenses incurred in connection with such services. These payments will be made on terms agreed to between the Pre-Petition Note Indenture Trustee and Plan Trustee. The Pre-Petition Note Indenture Trustee's Charging Lien will be discharged solely upon payment in full of the Indenture Trustee Fees. Nothing herein shall be deemed to impair, waive or discharge the Charging Lien.

2.04 Priority Tax Claims. Each holder of an Allowed Priority Tax Claim, except to the extent that a holder of such Claim and the applicable Debtor agree to a different treatment, shall receive, in full satisfaction of such Claim, payment in Cash of the amount of such Allowed Claim over a period not exceeding six (6) years after the date of assessment of such Claim, with interest at a rate equal to the Federal Judgment Rate as of the Confirmation Date, in periodic payments having a value, as of the Effective Date, equal to the amount of such Allowed Priority Tax Claim; *provided, however*, that Debtors or Plan Trustee, as the case may be, retain the right to prepay any such Allowed Priority Tax Claim, or any remaining balance of such Allowed Priority Tax Claim, in full or in part, at any time on or after the Effective Date without premium or penalty. Any future Distributions to be made on account of any such Allowed Priority Tax Claim after the Effective Date shall be made by the Plan Trustee in accordance with the Plan Trust Agreement.

2.05 Other Priority Claims. Except as otherwise provided in this Article 2 of the Plan, Allowed Unsecured Claims of the kinds specified in section 507(a) of the Bankruptcy Code shall be paid by the Debtors or the Plan Trustee, as the case may be, in Cash, on or as soon as practicable after the Effective Date, on such later date as they become due and payable in accordance with their respective terms or on such later date as such Claim is Allowed.

2.06 Debtor In Possession Financing. On the Effective Date, all of the Debtors' outstanding Senior Replacement DIP Facility Obligations and Junior Replacement DIP Facility Obligations shall be either: (a) fully, finally and indefeasibly satisfied through the conversion of the Senior Replacement DIP Facility and the Junior Replacement DIP Facility into the Senior Exit Financing Facility and the Junior Exit Financing Facility, respectively; or (b) paid in full, in Cash, in the Allowed amount of the Senior Replacement DIP Facility Obligations and Junior Replacement DIP Facility Obligations.

ARTICLE 3
CLASSIFICATION OF CLAIMS AND EQUITY INTERESTS

All Claims and Interests, except Administrative Claims, Priority Tax Claims, Other Priority Claims and any other unclassified Claims are placed in the Classes as set forth below. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Claims, Priority Tax Claims and Other Priority Claims have not been classified, and the respective treatments of such unclassified Claims are set forth in Article 2 of this Plan.

A Claim or Interest is placed in a particular Class only to the extent that the Claim or Interest falls within the description of that Class and is classified in other Classes to the extent that any portion of the Claim or Interest falls within the description of such other Classes. A Claim is also placed in a particular Class for the purpose of receiving Distributions pursuant to this Plan only to the extent that such Claim is an Allowed Claim in that Class and such Claim has not been paid, released or otherwise settled prior to the Effective Date. The value of any Distributions received by Holders of Claims in satisfaction of interest-bearing obligations shall be allocated first to the full satisfaction of the principal of such interest-bearing obligations and second in satisfaction of any accrued and unpaid interest.

3.01 Secured Claims. Class 1 shall consist of all Claims that are both Allowed and Secured, as those terms are defined in Exhibit A hereto.

3.02 Unsecured Claims. Unsecured Claims shall be classified in the following Classes:

(a) Class 2: Pre-Petition Note Claims.

- (i) Class 2A shall consist of Pre-Petition Note Claims against Holdings.
- (ii) Class 2B shall consist of Pre-Petition Note Claims against EPI.
- (iii) Class 2C shall consist of Pre-Petition Note Claims against EPT.
- (iv) Class 2D shall consist of Pre-Petition Note Claims against EPPHS.
- (v) Class 2E shall consist of Pre-Petition Note Claims against EPFM.
- (vi) Class 2F shall consist of Pre-Petition Note Claims against the Hillsdale Debtors.

(b) Class 3: Other Unsecured Claims.

- (i) Class 3A shall consist of Other Unsecured Claims against Holdings.

- (ii) Class 3B shall consist of Other Unsecured Claims against EPI.
- (iii) Class 3C shall consist of Other Unsecured Claims against EPT.
- (iv) Class 3D shall consist of Other Unsecured Claims against EPPHS.
- (v) Class 3E shall consist of Other Unsecured Claims against EPFM.
- (vi) Class 3F shall consist of Other Unsecured Claims against the Hillsdale Debtors.

3.03 Equity Interests. Class 4 shall consist of the Equity Interests.

ARTICLE 4 PROVISIONS FOR TREATMENT OF CLASSES OF CLAIMS AND EQUITY INTERESTS

4.01 Treatment of Secured Lender Claims (Class 1). Class 1 is not Impaired. Each holder of a Class 1 Claim shall be treated as though such holder comprises a separate Class hereunder. In full settlement, release and discharge of all Class 1 Claims, on the Effective Date or as soon thereafter as practicable, each holder of a Class 1 Allowed Claim shall receive one of the following treatments, at the option of the applicable Debtor: (i) the payment of such holder's Class 1 Allowed Claim in full, in Cash, (ii) the payment to such holder of sale or disposition proceeds of the property securing such holder's Class 1 Allowed Claim to the extent of the value of its interest in such property, or (iii) satisfied pursuant to an agreement by and among the Debtors, the Holder of the Class 1 Allowed Claim and, to the extent applicable, the appropriate NewCo. The particular manner and treatment of each Class 1 Allowed Claim shall be determined by the Debtors and transmitted, in writing, to each holder of a Class 1 Allowed Claim on or prior to the commencement of the Confirmation Hearing.

4.02 Treatment of Pre-Petition Note Claims (Classes 2A through 2F).

- (a) For purposes of the Plan, the Pre-Petition Note Claims against each of the Debtors are deemed allowed in the amount of \$252,708,333.33.
- (b) Class 2A is Impaired. Each holder of a Class 2A Allowed Claim shall receive, on the Initial Distribution Date and any Subsequent Distribution Dates, to the extent available for Distribution, its Pro Rata Share of any Estate Cause of Action Recoveries of Holdings.
- (c) Class 2B is Impaired. Each holder of a Class 2B Allowed Claim shall receive, on the Initial Distribution Date and any Subsequent Distribution Dates, to the extent available for Distribution, its Pro Rata Share of any Estate Cause of Action Recoveries of EPI, its Pro Rata Share of any Residual Interest in the Custodial Trust Accounts relating to Designated Property and Transitional Property owned by EPI immediately prior to the Effective Date.

- (d) **Class 2C is Impaired.** Each holder of a Class 2C Allowed Claim shall receive:
- (i) on the Effective Date its Unsecured Claim Distribution Amount in the form of New HoldCo Common Stock (subject to dilution for the Management Incentive Plan);
 - (ii) its Pro Rata Share of any Estate Cause of Action Recoveries of EPT to be distributed on the Initial Distribution Date and any Subsequent Distribution Dates, to the extent such Estate Cause of Action Recoveries are available for Distribution;
 - (iii) its Pro Rata Share of any Residual Interest in the Custodial Trust Accounts relating to Designated Property and Transitional Property owned by EPT immediately prior to the Effective Date; and
 - (iv) its Pro Rata Share of any Excess Cash on each applicable Distribution Date; provided, however, that such Pro Rata Share of Excess Cash shall be paid directly by the Plan Trust to New HoldCo on behalf of each such holder.
- (e) **Class 2D is Impaired.** Each holder of a Class 2D Allowed Claim shall receive:
- (i) on the Effective Date, its Unsecured Claim Distribution Amount in the form of New HoldCo Common Stock (subject to dilution for the Management Incentive Plan);
 - (ii) its Pro Rata Share of any Estate Cause of Action Recoveries of EPPHS to be distributed on the Initial Distribution Date and any Subsequent Distribution Dates, to the extent such Estate Cause of Action Recoveries are available for Distribution; and
 - (iii) its Pro Rata Share of any Excess Cash on each applicable Distribution Date; provided, however, that such Pro Rata Share of Excess Cash shall be paid directly by the Plan Trust to New HoldCo on behalf of each such holder.
- (f) **Class 2E is Impaired.** Each holder of a Class 2E Allowed Claim shall receive:
- (i) on the Effective Date, its Unsecured Claim Distribution Amount in the form of New HoldCo Common Stock (subject to dilution for the Management Incentive Plan);
 - (ii) its Pro Rata Share of any Estate Cause of Action Recoveries of EPFM to be distributed on the Initial Distribution Date and any

Subsequent Distribution Dates, to the extent such Estate Cause of Action Recoveries are available for Distribution; and

- (iii) its Pro Rata Share of any Excess Cash on each applicable Distribution Date; provided, however, that such Pro Rata Share of Excess Cash shall be paid directly by the Plan Trust to New HoldCo on behalf of each such holder.
- (g) Class 2F is Impaired. Each holder of a Class 2F Allowed Claim shall receive:
- (i) on the Effective Date, its Unsecured Claim Distribution Amount in the form of New HoldCo Common Stock (subject to dilution for the Management Incentive Plan);
 - (ii) its Pro Rata Share of any Estate Cause of Action Recoveries of the Hillsdale Debtors to be distributed on the Initial Distribution Date and any Subsequent Distribution Dates, to the extent such Estate Cause of Action Recoveries are available for Distribution;
 - (iii) its Pro Rata Share of any Excess Cash on each applicable Distribution Date; provided, however, that such Pro Rata Share of Excess Cash shall be paid directly by the Plan Trust to New HoldCo on behalf of each such holder; and
 - (iv) its Pro Rata Share of any Residual Interest in the Custodial Trust Accounts relating to Designated Property and Transitional Property owned by the Hillsdale Debtors immediately prior to the Effective Date.

4.03 Treatment of Other Unsecured Claims (Classes 3A through 3F).

- (a) Class 3A is Impaired. Each holder of a Class 3A Allowed Claim shall receive, on the Initial Distribution Date and any Subsequent Distribution Dates, to the extent available for Distribution, its Pro Rata Share of any Estate Cause of Action Recoveries of Holdings.
- (b) Class 3B is Impaired. Each holder of a Class 3B Allowed Claim shall receive, on the Initial Distribution Date and any Subsequent Distribution Dates, to the extent available for Distribution, its Pro Rata Share of any Estate Cause of Action Recoveries of EPI, its Pro Rata Share of any Residual Interest in the Custodial Trust Accounts relating to Designated Property and Transitional Property owned by EPI immediately prior to the Effective Date.
- (c) Class 3C is Impaired. Each holder of a Class 3C Allowed Claim shall receive:

- (i) at the option of the holder, either:
 - (A) its Unsecured Claim Distribution Amount in the form of Deferred Cash Payments and, on each applicable Distribution Date, its Pro Rata Share of any Excess Cash; or
 - (B) a lump sum cash payment on the Initial Cash Option Distribution Date (or, after the allowance of any such claim that is a Disputed Claim on the Effective Date, on the Subsequent Cash Option Distribution Date) equal to 75% of its Estimated Unsecured Claim Distribution Amount; plus
 - (ii) its Pro Rata Share of any Estate Cause of Action Recoveries of EPT to be distributed on the Initial Distribution Date and any Subsequent Distribution Dates, to the extent such Estate Cause of Action Recoveries are available for Distribution; and
 - (iii) its Pro Rata Share of any Residual Interest in the Custodial Trust Accounts relating to Designated Property and Transitional Property owned by EPT immediately prior to the Effective Date.
- (d) Class 3D is Impaired. Each holder of a Class 3D Allowed Claim shall receive:
 - (i) at the option of the holder, either:
 - (A) its Unsecured Claim Distribution Amount in the form of Deferred Cash Payments and, on each applicable Distribution Date, its Pro Rata Share of any Excess Cash; or
 - (B) a lump sum cash payment on the Initial Cash Option Distribution Date (or, after the allowance of any such claim that is a Disputed Claim on the Effective Date, on the Subsequent Cash Option Distribution Date) equal to 75% of its Estimated Unsecured Claim Distribution Amount; plus
 - (ii) its Pro Rata Share of any Estate Cause of Action Recoveries of EPPHS to be distributed on the Initial Distribution Date and any Subsequent Distribution Dates, to the extent such Estate Cause of Action Recoveries are available for Distribution.

- (e) **Class 3E is Impaired.** Each holder of a Class 3E Allowed Claim shall receive:
- (i) at the option of the holder, either:
 - (A) its Unsecured Claim Distribution Amount in the form of Deferred Cash Payments and, on each applicable Distribution Date, its Pro Rata Share of any Excess Cash; or
 - (B) a lump sum cash payment on the Initial Cash Option Distribution Date (or, after the allowance of any such claim that is a Disputed Claim on the Effective Date, on the Subsequent Cash Option Distribution Date) equal to 75% of its Estimated Unsecured Claim Distribution; plus
 - (ii) its Pro Rata Share of any Estate Cause of Action Recoveries of EPFM to be distributed on the Initial Distribution Date and any Subsequent Distribution Dates, to the extent such Estate Cause of Action Recoveries are available for Distribution.
- (f) **Class 3F is Impaired.** Each holder of a Class 3F Allowed Claim shall receive:
- (i) at the option of the holder, either:
 - (A) its Unsecured Claim Distribution Amount in the form of Deferred Cash Payments and, on each applicable Distribution Date, its Pro Rata Share of any Excess Cash; or
 - (B) a lump sum cash payment on the Initial Cash Option Distribution Date (or, after the allowance of any such claim that is a Disputed Claim on the Effective Date, on the Subsequent Cash Option Distribution Date) equal to 75% of its Estimated Unsecured Claim Distribution Amount; plus
 - (ii) its Pro Rata Share of any Estate Cause of Action Recoveries of the Hillsdale Debtors to be distributed on the Initial Distribution Date and any Subsequent Distribution Dates, to the extent such Estate Cause of Action Recoveries are available for Distribution; and
 - (iii) its Pro Rata Share of any Residual Interest in the Custodial Trust Accounts relating to Designated Property and Transitional Property owned by the Hillsdale Debtors immediately prior to the Effective Date.

4.04 Treatment of Equity Interests (Class 4). Class 4 is Impaired. Holders of Class 4 Allowed Equity Interests shall receive no Distribution on account of such Equity Interests.

4.05 Subordination Rights. The classification and treatment of all Claims and Equity Interests under the Plan take into consideration all contractual, legal, and equitable subordination rights, whether arising under general principles of equitable subordination, sections 510(b) and 510(c) of the Bankruptcy Code or otherwise, that a holder of a Claim or Equity Interest may have against other Claim or Equity Interest holders with respect to any Distribution made in accordance with the Plan. As of the Effective Date, all contractual, legal, or equitable subordination rights that a holder of a Claim or Equity Interest may have with respect to any Distribution to be made in accordance with the Plan are discharged and terminated, and all actions related to the enforcement of such subordination rights are permanently enjoined. Distributions under the Plan are not subject to payment to any beneficiaries of such terminated subordination rights, or to levy, garnishment, attachment, or other legal process by any beneficiary of such terminated subordination rights.

4.06 Withholding Taxes. The Debtors or the Plan Trustee, as the case may be, may deduct any applicable federal or state withholding taxes from any Distributions made pursuant to the Plan.

4.07 Set Offs. The Debtors may, but shall not be required to, set off or recoup against any Claim and the payments or other Distributions to be made pursuant to the Plan in respect of such Claim, claims of any nature whatsoever which the Debtors or the Estates may have against the holder of such Claim to the extent such claims may be set off or recouped under applicable law, but neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtors or the Plan Trust of any such claim or counterclaim that they may have against such holder.

4.08 Timing of Payments and Distributions. Any payments or Distributions to be made under the Plan shall be deemed to be timely made if made within twenty (20) days after the date specified in the Plan and Plan Trust Agreement, as applicable, or as soon thereafter as reasonably practicable. Whenever any Distribution to be made under the Plan or Plan Trust Agreement shall be due on a day other than a Business Day, such Distribution shall instead be made, without interest, on the immediately succeeding Business Day, but shall be deemed to have been made on the date due. The value of any Distributions received by Holders of Claims in satisfaction of interest-bearing obligations shall be allocated first to the full satisfaction of the principal of such interest-bearing obligations and second in satisfaction of any accrued and unpaid interest.

4.09 Manner of Payments. Unless the person or entity receiving a payment agrees otherwise, any payment of Cash to be made by a Debtor or Plan Trust shall be made, at the election of the Debtor or Plan Trustee (as the case may be), by check drawn on a domestic bank or by wire transfer from a domestic bank; *provided, however*, that no Cash payments shall be made to a Holder of an Allowed Claim until such time as the amount payable thereto is equal to or greater than Fifty Dollars (\$50.00).

4.10 Time Bar to Cash Payments. Checks issued by the a Debtor or Plan Trust on account of Allowed Claims shall be null and void if not negotiated within ninety (90) days from and after the date of issuance thereof. Requests for reissuance of any check shall be made directly to the Debtor or Plan Trustee by the holder of the Allowed Claim with respect to which such check originally was issued. Any claim in respect of such a voided check shall be made on or before the later of (i) the second anniversary of the Effective Date or (ii) ninety (90) days after the date of issuance of such check, if such check represents a final Distribution hereunder on account of such Claim. After such date, all claims in respect of voided checks shall be discharged and forever barred and the Debtors and/or Plan Trust, as the case may be, shall retain all monies related thereto.

4.11 Impaired Classes to Vote. Each holder of a Claim or Equity Interest in an impaired Class not otherwise deemed to have rejected the Plan shall be entitled to vote to accept or reject the Plan. In the event of a controversy as to whether any Class of Claims or Equity Interests is impaired under the Plan, the Bankruptcy Court shall, after notice and a hearing, determine such controversy.

4.12 Cram-Down. If any Impaired Class fails to accept the plan by the requisite statutory majorities, the Debtors reserve the right to confirm the Plan by a "cram-down" of such non-accepting Class pursuant to section 1129(b) of the Bankruptcy Code. In the event the Bankruptcy Court declines to impose a "cram-down" on a non-accepting Class unless certain modifications are made to the terms and conditions of such Class' treatment under the Plan, the Debtors, with the consent of the Creditors' Committee, which consent shall not be unreasonably withheld, reserve the right, without re-solicitation to the extent permitted by the Bankruptcy Code and the Bankruptcy Rules, to propose any such modifications and to seek confirmation of the Plan as modified.

ARTICLE 5 IMPLEMENTATION OF THE PLAN

5.01 Restructuring Transaction. On or prior to the Effective Date, New HoldCo and the following direct or indirect subsidiary NewCos, among others, shall be formed for the purpose of acquiring the Transferred Assets of the Debtors: New Management Co., New EP Automotive LLC, New EP Technologies LLC, New EP Filtration & Minerals LLC, EP Real Estate LLC, New Wolverine LLC, New Hillsdale LLC, New Boron LLC, New EP Pharmaceutical LLC and New DSP LLC². New HoldCo Common Stock shall be authorized but not issued until Distributions of such stock are required under the Plan.

5.02 Transfer of Assets to NewCos. On the Effective Date, and in accordance with the terms of the Purchase Agreements to be filed with the Plan Supplement and as more specifically set forth below, for good and valuable consideration, all of the Transferred Assets shall be sold, conveyed, assigned, transferred and delivered to the respective NewCo, free and clear of all Liens, Claims, Other Interests, Equity Interests and Interests asserted by the Debtors, any creditors of the Debtors, Entity or other Persons to the fullest extent permitted by applicable

² The legal names of the NewCos upon formation may differ from the names identified above.

law, including, but not limited to, sections 363, 1123, 1129, and 1141 of the Bankruptcy Code, save and excepting the Assumed Liabilities expressly specified in the Plan or the Purchase Agreements or other specific obligations expressly undertaken by New HoldCo or any NewCo in the Plan. Neither New HoldCo nor any NewCo shall be or be deemed to be a successor of (whether de facto or otherwise) or have merged into or with any of the Debtors. Except for any Assumed Liabilities expressly set forth in the Plan or the Purchase Agreements or other specific obligations expressly undertaken by New HoldCo or any NewCo in the Plan, neither New HoldCo nor any NewCo shall, to the fullest extent permitted by applicable law, including, but not limited to, sections 363, 1123, 1129, and 1141 of the Bankruptcy Code, have any liability, obligation or responsibility with respect to any Claims against or Equity Interests in any of the Debtors, including without limitation any amounts owed by the Debtors to holders of Claims or Equity Interests or any obligations of the Debtors or the Plan Trust pursuant to the Plan. The terms, provisions and conditions of the Purchase Agreements shall govern the obligations of the Debtors, New HoldCo and the NewCos with respect to the transfer of Transferred Assets and related transactions and to the extent inconsistent with the Plan, the Purchase Agreements shall control. The Confirmation Order shall constitute an Order approving the Purchase Agreements and all transactions contemplated thereby, including the transfer of the Transferred Assets free and clear of any Liens, Claims, Interests, Other Interests or Equity Interests. As provided in the Purchase Agreements, each of the Debtors (other than EaglePicher Holdings, Inc.) shall transfer its Transferred Assets (including, without limitation, equity interests in Non-Debtor Subsidiaries, affiliates and joint ventures) to the specified NewCo entity identified in Exhibit B³ to the Plan in exchange for Plan Consideration having an aggregate value equal in amount to the value of the applicable Transferred Assets, in each case as determined by the Bankruptcy Court.

5.03 Indemnification. Pursuant to the Purchase Agreements, the existing indemnification obligations of the Debtors to their current directors, officers and employees will be assumed and assigned to the applicable NewCos.

5.04 Issuance of New HoldCo Common Stock. The Plan contemplates the issuance of New HoldCo Common Stock, which, together with other Plan Consideration, shall be delivered to the Debtors in exchange for the Transferred Assets and subsequently distributed as provided herein. New HoldCo and the NewCos shall execute and deliver such other agreements, documents and instruments, as is necessary to effectuate the Plan. On the Effective Date, New HoldCo shall issue ten million (10,000,000) shares of New HoldCo Common Stock. The New HoldCo Common Stock shall be issued to the NewCos in amounts sufficient to fund that portion of the Plan Consideration to be paid by each NewCo in the form of New HoldCo Common Stock pursuant to the applicable Purchase Agreement. After New HoldCo Common Stock is paid to the applicable Debtor in accordance with the applicable Purchase Agreement, those shares shall be distributed to the creditors of the applicable Debtor in accordance with the Plan.

5.05 Exemption From Securities Laws. Although section 1145 of the Bankruptcy Code may exempt the offer and sale by the Debtors and New HoldCo of the New HoldCo

³ It is possible that, as a result of business or tax planning opportunities and in order to maximize tax efficiencies, the actual NewCo organizational structure implemented upon the Effective Date may change, however any such changes will not be materially adverse to any Creditors.

Common Stock from the registration requirements of the Securities Act of 1933, as amended (the "Securities Act"), the Debtors and New HoldCo intend to rely on the exemption from registration provided by Section 4(2) of the Securities Act and/or Regulation D promulgated thereunder. As a result, and notwithstanding the provisions of Article 4, no New HoldCo Common Stock shall be issued and distributed to any holder of an Allowed Claim entitled to receive New HoldCo Common Stock under Article 4 until such holder shall have delivered to the Debtors and New HoldCo a duly executed Subscription Form and Shareholders Agreement.

5.06 Cancellation of Existing Debt Securities. On the Effective Date, except as otherwise specifically provided for herein, and excluding any equity owned by a Debtor in any non-Debtor entity, (a) the Pre-Petition Note Indenture, Equity Interests, and any other note, bond or other instrument or document evidencing or creating any indebtedness or obligation of the Debtors, except such notes or other instruments evidencing indebtedness or obligations of the Debtors that are reinstated under this Plan, will be cancelled, and (b) the obligations of, and Claims against the Debtors under, relating, or pertaining to any agreements, Pre-Petition Note Indentures, Equity Interests, or similar documents and any other note, bond, Pre-Petition Note Indenture, or other instrument or document evidencing or creating any indebtedness or obligation of the Debtors, except such notes or other instruments evidencing indebtedness or obligations of the Debtors that are reinstated under this Plan, as the case may be, shall be deemed automatically cancelled without further act or action under any applicable agreement, law, regulation, order or rule and the obligations of the Debtors and the Debtors' affiliates and the Pre-Petition Note Indenture Trustee, as applicable, under the agreements and indenture governing such claims and equity interests, as the case may be, shall be discharged; *provided, however*, that the Pre-Petition Notes and Pre-Petition Note Indenture shall continue in effect solely for the purposes of (i) allowing the holders of the Pre-Petition Notes to receive their distributions hereunder, (ii) allowing the Pre-Petition Note Indenture Trustee to make the distributions to be made on account of the Pre-Petition Notes, and (iii) permitting the Pre-Petition Note Indenture Trustee to assert its Charging Lien against such distributions for payment of the Indenture Trustee Fees.

5.07 Plan Financing. On the Effective Date, the Debtors may exercise their option to convert the Senior Replacement DIP Facility into the Senior Exit Financing Facility and to convert the Junior Replacement DIP Facility into the Junior Exit Financing Facility. The Exit Financing Facilities or any alternative exit financing arrangements shall be extended to New HoldCo and the NewCos, and either the satisfaction of the Senior Replacement DIP Facility Obligations and the Junior Replacement DIP Facility Obligations through such conversion or the proceeds of any alternative exit financing arrangements shall constitute a portion of the Plan Consideration. The Debtors, New HoldCo and the NewCos shall enter into all documents necessary and appropriate in connection with the Exit Financing Facilities or any alternative financing arrangements. The principal Exit Financing Facilities documents or any documents memorializing alternative financing arrangements shall be filed by the Debtors with the Bankruptcy Court as part of the Plan Exhibits no later than the Exhibit Filing Date. Pursuant to the Confirmation Order, the Bankruptcy Court shall approve the terms of the Exit Financing Facilities or any alternative financing arrangements in substantially the form filed with the Bankruptcy Court (and with such changes as to which the applicable Debtors, New HoldCo, the NewCos and respective agents and lenders parties thereto may agree) and authorize New HoldCo and the NewCos to execute the same together with such other documents as the applicable

Debtors and the applicable lenders may reasonably require in order to effectuate the treatment afforded to such parties under the Exit Financing Facilities or any alternative financing arrangements.

5.08 Substantive Consolidation. The Plan shall in part be implemented through a substantive consolidation of the assets and liabilities of Debtors EaglePicher Automotive, Inc., Daisy Parts Inc. and Carpenter Enterprises Limited (each, a "Hillsdale Debtor," and collectively, the "Hillsdale Debtors"). There shall be no substantive consolidation of any of the Debtors other than the Hillsdale Debtors. The Plan shall serve as a motion seeking the entry of an order substantively consolidating the Hillsdale Debtors' chapter 11 cases, as described herein. The substantive consolidation of the assets and liabilities and properties of the Hillsdale Debtors shall occur only upon occurrence of the Effective Date and shall have the following effects, among others:

- (a) The chapter 11 cases of the Hillsdale Debtors shall be consolidated into the case of as a single consolidated case. All property of the estate of each Hillsdale Debtor shall be deemed to be property of the consolidated Hillsdale Debtors.
- (b) All Claims against each of the Hillsdale Debtor's estates shall be deemed to be Claims against the consolidated Hillsdale Debtors' estate, all proofs of claim filed against one or more of the Hillsdale Debtors shall be deemed to be a single claim filed against the consolidated Hillsdale Debtors' estate, and all duplicate proofs of claim for the same claim filed against more than one of the Hillsdale Debtors Debtor shall be deemed expunged.
- (c) No Distributions under the Plan shall be made on account of Intercompany Claims by and among the Hillsdale Debtors and such Intercompany Claims shall not be treated or affected by the Plan.
- (d) All equity interests owned by one Hillsdale Debtor in an affiliate shall remain outstanding after the Confirmation Date and shall not be affected by the Plan.
- (e) Except as specifically provided herein, all guarantees by one Hillsdale Debtor in favor of any other Hillsdale Debtors shall be eliminated, and no Distributions under this Plan shall be made on account of Claims based upon such guarantees.
- (f) For purposes of determining the availability of the right of setoff under section 553 of the Bankruptcy Code, the Hillsdale Debtors shall be treated as one consolidated entity so that, subject to the other provisions of section 553, debts due to any of Hillsdale Debtors may be set off against the debts of any other of Hillsdale Debtors.
- (g) Substantive consolidation shall not merge or otherwise affect the separate legal existence of (a) each Hillsdale Debtor for licensing, regulatory or other

purposes, other than with respect to Distribution rights under this Plan and (b) of Debtors other than the Hillsdale Debtors.

- (h) Substantive consolidation shall have no effect on valid, enforceable and unavoidable liens, except for liens that secure a Claim that is eliminated by virtue of substantive consolidation and liens against collateral that are extinguished by virtue of substantive consolidation. Substantive consolidation shall not impair or adversely affect in any respect any of the liens, claims, rights, priorities, protections and remedies granted under the Replacement DIP Order, the Senior Replacement DIP Facility, the Junior Replacement DIP Facility or the Senior or Junior Exit Financing Facilities.
- (i) Substantive consolidation shall not have the effect of creating a Claim in a Class different from the Class in which a Claim would have been placed in the absence of substantive consolidation.
- (j) Substantive consolidation shall not effect any applicable date(s) for purposes of pursuing any avoidance actions or other actions reserved to the Hillsdale Debtors pursuant to the Plan.
- (k) Substantive consolidation shall not impact or otherwise affect provisions in the Plan, if any, which provide that specific entities comprising the Hillsdale Debtors shall be liable on specific obligations under the Plan.

5.09 Vesting of Assets. Except as otherwise provided herein or in the Purchase Agreements or Confirmation Order, on the Effective Date the Transferred Assets of each of the Debtors shall vest in the specified NewCo as provided in the Plan, free and clear of all Liens, Claims, Interests, Equity Interests, encumbrances and Other Interests. After the Effective Date, the NewCos will own the Transferred Assets and operate their businesses and manage their affairs free of any restrictions contained in the Bankruptcy Code.

5.10 Management Incentive Plan. The Management Incentive Plan shall be deemed to be authorized and approved in all respects. The Management Incentive Plan shall be implemented to provide those senior management members of New HoldCo and the NewCos who are designated by the New HoldCo's Board of Directors with options to purchase New HoldCo Common Stock or other cash or non-cash compensation or incentives, in all cases in amounts and on terms to be determined by the New HoldCo Board of Directors, provided that options for at least 10% of the New HoldCo Common Stock shall be reserved for issuance under the Management Incentive Plan in the aggregate.

5.11 Operations of NewCos. On and after the Effective Date, New HoldCo and the NewCos will operate their businesses as separate legal entities independent and distinct from, and not as successors to (whether de facto or otherwise), the Debtors. New HoldCo shall have a Board of Directors of up to eight (8) members, all of whom shall be acceptable to the Majority Noteholders. Pursuant to the Purchase Agreements, all employees in good standing with any of

the Debtors as of the Effective Date will be offered the same positions they held immediately prior to the Effective Date at New HoldCo or the appropriate NewCo, as the case may be.

5.12 Creation, Operation and Vesting of Assets in EP Custodial Trust.

(a) On the Effective Date, the Designated Property and the Transitional Property will be transferred to the EP Custodial Trust which will take title to the Transitional Property and Designated Property pursuant to the Custodial Trust Agreement, *provided, however*, that all property currently titled in the name of EPI located in Cherokee County, Kansas shall be treated as property titled in the name of EPT (consistent with the pre-petition documentation governing the transfer of such property from EPI to EPT) and shall be treated as EPT property for purposes of funding the EP Custodial Trust. The purpose and objective of the EP Custodial Trust will be as set forth in the Custodial Trust Agreement, but will including: (i) owning the Designated Property and owning and leasing the Transitional Property pursuant to the TP Leases; (ii) managing the Environmental Actions and funding the applicable Environmental Costs; (iii) where applicable, continuing Environmental Actions currently underway at any of the properties; (iv) implementing the terms of any settlement agreements with the Environmental Agencies; and (v) ultimately selling, transferring or otherwise disposing of the Designated Property and Transitional Property to one or more third parties.

(b) The EP Custodial Trust will be administered by the Custodial Trustee pursuant to the terms and conditions of the Custodial Trust Agreement.

(c) The EP Custodial Trust will be funded in amounts that the Bankruptcy Court determines at the Confirmation Hearing are sufficient to pay the Environmental Costs of the Designated Property and Transitional Property and to administer the EP Custodial Trust. As determined by the Bankruptcy Court, some or all of the Funding of the EP Custodial Trust will be generated from the leasing of Transitional Property to one or more of the NewCos pursuant to the TP Leases. The Funding of the EP Custodial Trust with respect to the Designated Property constitutes an administrative expense of EPI, EPT and the Hillsdale Debtors, respectively. On the Effective Date the Debtors shall deposit that portion of the Funding that consists of cash in the Custodial Trust Accounts established by the EP Custodial Trust pursuant to the terms of the Custodial Trust Agreement and the Custodial Trustee and the applicable NewCos shall execute the TP Leases. The Debtors may, but shall not be obligated to, obtain insurance or other credit or similar support for funding Environmental Costs of the EP Custodial Trust as they determine in their reasonable discretion.

(d) Except as otherwise provided for in the Custodial Trust Agreement, from the Effective Date to the date on which the Plan Trust terminates, any Over-Funding and Residual Interest in the EP Custodial Trust will be granted to the Plan Trust for the benefit of holders of Unsecured Claims against the Debtor who owned the Designated Property or Transitional Property from which such Over-Funding or Residual Interest was generated. From and after the date on which the Plan Trust terminates, any remaining Residual Interest in the EP Custodial Trust will be granted to the States in which the Designated Property and Transitional Property is located on a pro rata basis. In the event a State were to reject such remaining Residual Interest, then such Residual Interest will revert to the county government in which such Designated

Property is located, and thereafter to such charity as the Custodial Trustee shall designate in his sole discretion.

(e) If the Debtors reach settlement agreement(s) with the USEPA and other applicable Environmental Agencies with respect to the treatment under the Plan of the Designated Property, the Transitional Property or any part thereof, the Debtors will lodge and file such settlement agreements with the Bankruptcy Court and seek approval thereof at the Confirmation Hearing. The Plan and the creation and funding of the EP Custodial Trust is not contingent upon the Debtors reaching a settlement with the USEPA and other applicable governmental agencies.

(f) Neither New HoldCo nor any of the NewCos shall be or be deemed to be an owner, operator, trustee, partner, agent, shareholder, officer or director of the EP Custodial Trust, or an owner or operator of the Designated Property, or an owner of the Transitional Property *provided, however*, nothing herein shall relieve any entity of any liability for any new acts after the Effective Date creating liability under Environmental Laws and nothing herein shall relieve any entity that operates or owns the Properties after the Effective Date from any liability under Environmental Laws as an operator or owner of the Properties after the Effective Date.

(g) The Custodial Trust Accounts shall likely be treated as either a "qualified settlement fund" as that term is defined in Treasury Regulation section 1.468B-1, or as a "disputed ownership fund" as that term is defined in Treasury Regulation section 1.468B-9. If the Custodial Trust Accounts are treated as qualified settlement funds, the Custodial Trustee will not elect to have such fund be treated as a subpart E trust, and shall comply with all tax reporting and withholding requirements imposed under applicable tax laws. If the Custodial Trust Accounts are treated as a disputed ownership fund, the Custodial Trustee shall elect to treat such fund as a "C Corporation" and shall comply with all tax reporting and withholding requirements imposed under applicable tax laws. The Custodial Trust Accounts will be taxable entities.

(h) The EP Custodial Trust, the Custodial Trustee, New HoldCo and NewCo and their respective affiliates, subsidiaries, parents, members, shareholders, officers, directors, managers, employees, consultants, agents, lenders, attorneys, or other professionals and representatives shall be accorded under the Plan and Confirmation Order the broadest protection available under law with respect to any and all liability related to or in connection with the Designated Property, Transitional Property, and the EP Custodial Trust, including, but not limited to, CERCLA § 107(n), 42 U.S.C. § 9607(n); O.R.C. § 3746.27(A) (Ohio); 415 ILCS 5/22.2(h)(2)(D) (Illinois); MCL § 324.20101-20101b (Michigan); and Mo. R.S. § 427.031 (Missouri).

5.13 Dissolution of Corporate Existence of Debtors. On the first Business Day of the month following the month in which the Effective Date occurs or as soon thereafter as the Debtors determine (the "Dissolution Date"), (a) the Debtors, exclusive of their respective Estates, shall be dissolved in accordance with applicable non-bankruptcy law, including, without limitation, Ohio Revised Code section 1701.75, Delaware Limited Liability Company Act section 18-801, Michigan Business Corporation Act section 450.1861 through 450.1863 and

chapter 78 section 622 of the Nevada Revised Statutes⁴; (b) the affairs of the Debtors shall be deemed to have been completely wound up; and (c) the Debtors shall cease to exist as legal entities. Each of the foregoing actions shall be effective as of the Dissolution Date without the requirement to take any additional action or provide further notice to any Person, Holder, or Governmental Unit (as defined in section 101(27) of the Bankruptcy Code); provided that the Debtors may, but shall not be required to, file certificates of cancellation or other appropriate instruments evidencing the foregoing actions pursuant to applicable non-bankruptcy law, including, but not limited to, Delaware Limited Liability Company Act section 18-803. On the Effective Date, all of the Debtors' directors and officers shall be deemed to have resigned without further action or notice, *provided, however*, that in the event the applicable Debtors are required to obtain governmental approval to transfer any Environmental Permit, including but not limited to the RCRA Permits, but have not received such governmental approval prior to the Effective Date, those Debtors shall not be dissolved, and one or more officers of those Debtors may remain active and not resign, until such time as the applicable governmental agencies have approved the transfer of the Environmental Permits, including the RCRA Permits associated with the Debtors' operations at facilities located in Quapaw, Oklahoma, Lenexa, Kansas and Joplin, Missouri. New HoldCo and the applicable NewCos that acquire the Debtors' operations that require an Environmental Permit that has not been transferred prior to the Effective Date will enter into transitional services agreements with the applicable Debtor permit holder (the "Transitional Services Agreements"). The applicable Debtor permit holder shall remain the responsible party under the applicable Environmental Permits pending transfer of such permits, and, under the Transitional Services Agreements, may utilize New HoldCo and the applicable NewCos to perform services subsequent to the Effective Date to assist Debtor in complying with its permit responsibilities pending transfer of the Environmental Permits that have not been transferred prior to the Effective Date. New HoldCo and the applicable NewCos shall indemnify and hold harmless the applicable Debtor permit holder for any obligations arising under the Transitional Services Agreements on or after the Effective Date. Each of the foregoing actions shall be binding on and enforceable against all Persons, Holders and Governmental Units.

5.14 Employee Pension and Benefit Plans. On and after the Effective Date, the pension and benefit plans of the Debtors shall be treated as described in this Section 5.14 of the Plan.

- (a) Except (i) as otherwise specified in Section 10.04 of the Plan, or (ii) for modifications implemented by Debtors in the ordinary course of their business, or to the extent required, modifications either negotiated or ordered by the Bankruptcy Court pursuant to section 1114 of the Bankruptcy Code, all employment and severance policies, and all compensation and benefit plans, policies, and programs of Debtors applicable generally to their respective employees or retirees including, without limitation, all savings plans, retirement plans, health care plans, disability plans, severance benefit plans, incentive plans, and life, accidental death, and dismemberment insurance plans, shall be assumed by the Debtors and assigned to New HoldCo and the NewCos pursuant to the Purchase Agreements and otherwise in accordance

⁴ To the extent not adverse to the interests of the Debtors, New HoldCo or the NewCos, neither EPH nor EPI shall be dissolved prior to the dissolution of its respective subsidiary Debtors.

with the provisions of sections 365 and 1123 of the Bankruptcy Code upon the entry of the Confirmation Order.

- (b) Upon the Effective Date, (i) New HoldCo shall become the plan administrator and plan sponsor of the Pension Plans currently maintained and sponsored by EaglePicher Incorporated. In addition, upon the Effective Date, the NewCos shall become participating employers in the Pension Plans. Thereafter, New HoldCo and the NewCos shall assume, and become responsible for, all accrued liabilities and obligations of the Debtors under the Pension Plans, and (ii) neither the Debtors nor their directors, officers, employees, agents, representatives, or professionals shall have any further responsibilities, liabilities, duties or obligations with respect to the Pension Plans, except that nothing herein shall release any claim or claims of the Pension Benefit Guaranty Corporation or any pension plan, currently or formerly sponsored by EPI against any person arising under 29 U.S.C. Sections 1104-1109 with respect to the pension plans, including any such claims of the Pension Benefit Guaranty Corporation asserted pursuant to 29 U.S.C. sections 1303(e) and 1342(d). New HoldCo shall have the responsibility and duty to: (i) file in the time and manner as may be required by any applicable law any forms and/or notices with any governmental entity regarding such assumption of responsibilities under the Pension Plans; and (ii) notify Pension Plan participants in the time and manner as may be required by any applicable law of such change in the sponsorship of the Pension Plans along with any other related information as may be required by law.

5.15 Estate Causes of Actions. As of the Effective Date, Debtors shall assign to the Plan Trust the right to prosecute, settle and release, on behalf of themselves and their Estates, any and all Estate Causes of Action, other than any such actions that were expressly included in the Transferred Assets. The Plan Trust, as the assignee of the Debtors, shall retain and may prosecute any and all Estate Causes of Action, including any such actions that may be pending on the Effective Date, and may, whether or not an Estate Cause of Action has been commenced prior to the Effective Date, assert the claim or cause of action underlying such Estate Cause of Action as a defense or counterclaim to any Claim or action, including, but not limited to, any rights under section 502(d) of the Bankruptcy Code. Unless Debtors consent, or unless otherwise ordered by the Bankruptcy Court, no other party, other than the Plan Trust, shall have the right or obligation to pursue any such actions.

5.16 Continuation of Stays. Unless otherwise provided in the Plan or the Confirmation Order, all injunctions or stays in effect pursuant to sections 105 or 362 of the Bankruptcy Code or otherwise and in effect on the Confirmation Date shall remain in full force and effect until the Effective Date.

5.17 Non-Debtors. The continued existence, operation and ownership of Non-Debtor Subsidiaries is a material component of the Debtors' businesses, and, as set forth in Section 5.02 of this Plan, subject to the terms of the Purchase Agreements, the Debtors' equity interests and other property interests in such Non-Debtor Subsidiaries shall constitute part of the Transferred Assets of

the applicable Debtor which shall be sold and conveyed to the applicable NewCos on the Effective Date.

ARTICLE 6 PLAN TRUST

6.01 Appointment of the Plan Trustee. The Debtors shall appoint the Plan Trustee who shall be retained as of the Effective Date. The name of the Plan Trustee will be disclosed on or before the Exhibit Filing Date.

6.02 Transfer by the Debtors of Property to the Plan Trust. In order to provide for the Distributions in Sections 4.02 of the Plan and otherwise in accordance with the Plan Trust Agreement, the Debtors shall transfer and assign to the Plan Trust for the benefit of the Plan Trust Beneficiaries, the Initial Plan Trust Assets on or before the Effective Date and, from time to time thereafter, Future Plan Trust Assets, including Plan Consideration to be distributed in accordance with the terms of the Plan on the Effective Date.

6.03 Assumption of Liabilities By Plan Trust; Novation.

- (a) In consideration for the transfer to the Plan Trust of the Initial Plan Trust Assets and the future transfer of other Plan Trust Assets, the Plan Trust shall assume and undertake the responsibility of the Debtors to make Distributions to the holders of Allowed Claims under the Plan after the Effective Date.
- (b) As more fully set forth in the Plan Trust Agreement, the Plan Trustee and its employees, advisors, agents, professionals, affiliates, parents and representative, and any employees, advisors, agents, professionals, affiliates, officers, directors, parents, subsidiaries and representatives thereof, shall have no personal liability for the obligations of the Plan Trust, nor shall they be deemed to have personally assumed any of the obligations of the Plan Trust, the Debtors, the Committee, New HoldCo or NewCos, as the case may be.
- (c) Any income or other taxes attributable to income or assets held in the Plan Trust (including interest earned by the Plan Trust), shall be paid as provided in Section 6.10 below. The Plan Trust and the Plan Trustee shall comply with all tax reporting and withholding requirements imposed under applicable tax laws.
- (d) The assumption by the Plan Trust of the obligations of the Debtors to make Distributions to holders of Allowed Claims after the Effective Date shall constitute a full and complete novation by the Plan Trust of all Allowed Claims. The Debtors shall be relieved from any and all liability in respect thereof.

6.04 Distributions by Plan Trust. The Distributions to be made pursuant to the Plan by the Plan Trustee shall be governed by the Plan Trust Agreement and the Plan. The Plan Trustee shall make all Distributions required under the Plan, other than Distributions to holders of Pre-Petition Note Claims which are governed by Section 6.05 of the Plan, to the holders of Allowed Claims on the Distribution Dates. Such Distributions shall be in accordance with the procedures and treatment set forth in the Plan Trust Agreement and the Plan.

6.05 Distributions by Pre-Petition Note Indenture Trustee.

(a) The Distributions to be made to holders of Allowed Pre-Petition Note Claims shall be made by the Pre-Petition Note Indenture Trustee on the Distribution Dates. The Plan Trustee shall deliver all distributions in respect of Allowed Pre-Petition Note Claims to the Pre-Petition Note Indenture Trustee. The distributions to be made under the Plan to holders of Allowed Pre-Petition Note Claims shall be made to the Pre-Petition Note Indenture Trustee, which, subject to the right of Pre-Petition Note Indenture Trustee to assert its Charging Lien against such distributions, shall transmit the distributions to the holders of such Allowed Pre-Petition Note Claims. The value of any Distributions received by Holders of Allowed Pre-Petition Note Claims in satisfaction of interest-bearing obligations shall be allocated first to the full satisfaction of principal of such interest-bearing obligations and second in satisfaction of any accrued and unpaid interest.

(b) The Pre-Petition Note Indenture Trustee shall have no obligation to recognize any transfer of any Pre-Petition Note Claims occurring after the Effective Date, and shall instead be authorized and entitled to recognize and deal for all purposes under the Plan with only those record holders stated on the Claims register as of the close of business on the day prior to the Effective Date. As of the close of business on the Initial Distribution Date, (i) the claims register shall be closed, (ii) the transfer books and records of the Pre-Petition Notes as maintained by the Pre-Petition Note Indenture Trustee or its agent shall be closed, and (iii) any transfer of any Pre-Petition Note Claim or any interest therein shall be prohibited. The Debtors, the Plan Trustee, and/or the Pre-Petition Note Indenture Trustee shall have no obligation to recognize any transfer of any Pre-Petition Note Claims occurring after the close of business on the day prior to the Effective Date, and shall instead be entitled to recognize and deal for all purposes under this Plan with only those holders of record as of the close of business on the day prior to the Effective Date. The Plan Trustee shall reimburse the Pre-Petition Note Indenture Trustee on terms agreed to between the Pre-Petition Note Indenture Trustee and the Plan Trustee, for all reasonable costs and expenses incurred in connection with complying with their obligations under this section.

6.06 Duties and Obligations of the Plan Trustee. The Plan Trustee shall be compensated at the rate to be disclosed at or prior to the Confirmation Hearing, plus reimbursement for his actual and necessary expenses reasonably incurred in connection with the performance of his duties, subject to Bankruptcy Court approval. The Plan Trustee shall not be liable for any action he takes or omits to take that he believes in good faith (including upon the advice of counsel) to be authorized or within his rights or powers unless it is ultimately and finally determined by the Bankruptcy Court that such action or inaction was the result of gross negligence or willful misconduct. Except as provided for in the Plan Trust Agreement, all Distributions to be made to holders of Allowed Claims after the Effective Date under the Plan,

shall be made by the Plan Trustee, who shall deposit and hold all Cash and other Property in the Plan Trust for the Trust Beneficiaries. Subject to the foregoing, the duties and powers of the Plan Trustee shall include, without limitation, the following:

- (a) To exercise all power and authority that may be exercised, commence all proceedings that may be commenced and take all actions that may be necessary in order to consummate the Plan and all transfers and Distributions thereunder on behalf of the Plan Trust;
- (b) To maintain all accounts, invest Cash of the Plan Trust, make interim and final distributions and take other actions consistent with the Plan and Plan Trust Agreement, including the maintenance of appropriate reserved, in the name of the Plan Trust;
- (c) To take all steps appropriate to evidence the dissolution and cessation of the corporate existence of the Debtors as described in Section 5.13 of the Plan, including, if any, such ministerial acts which may be necessary on behalf of the Debtors during the time period between the Effective Date and the Dissolution Date;
- (d) To prosecute, compromise or settle objections to Administrative, Priority Tax, Other Priority, miscellaneous Secured Claims and Unsecured Claims (disputed or otherwise). The Plan Trustee shall have full party-in-interest status to object to any Administrative, Priority Tax, Other Priority, Secured Claims, Unsecured Claims and be heard with respect to any objection to General Unsecured Claims;
- (e) To prosecute, compromise or settle all Estate Causes of Action;
- (f) To retain or engage Professionals or other Persons by the Plan Trust and to pay, without court order, all reasonable fees and expenses incurred after the Effective Date;
- (g) To sell or otherwise transfer for value the Initial Plan Trust Assets and the Future Plan Trust Assets;
- (h) To file with the Bankruptcy Court the reports and other documents required by the Plan or otherwise required to close the Chapter 11 Cases;
- (i) To prepare and file tax and informational returns for the Debtors and the Plan Trust;
- (j) To set off amounts owed to the Debtors or Plan Trust against any and all amounts otherwise due to be distributed to the holder of an Allowed Claim under the Plan;

- (k) To abandon any Property constituting the Initial Plan Trust Assets and the Future Plan Trust Assets, excluding real property, of the Debtors or Plan Trust that cannot be sold or otherwise disposed of for value and whose Distribution to holders of Allowed Claims would not be feasible or cost-effective in the reasonable judgment of the Plan Trustee;
- (l) To provide for storage and destruction of records of the Debtors and Plan Trust; and
- (m) To receive any Residual Interests in the Custodial Trust Accounts pursuant to Section 5.12(f) of the Plan, to distribute any such Residual Interests as provided in Sections 4.02 and 4.03 of the Plan and otherwise to engage in transactions with the Custodial Trustee to the extent provided in the Plan and Confirmation Order; and
- (n) To take all other actions not inconsistent with the provisions of the Plan and Plan Trust which the Plan Trustee deems reasonably necessary or desirable in connection with the administration of the Plan and Plan Trust.

6.07 Investments. All Cash held by the Plan Trustee in any amounts or otherwise shall be invested in accordance with section 345 of the Bankruptcy Code and consistently with the standards of Revenue Procedure 94-45, 1994-28 C.B. 124, or as otherwise permitted by the Confirmation Order or any other Final Order of the Bankruptcy Court.

6.08 Resignation or Removal. Upon application and for good cause, the Bankruptcy Court may remove the Plan Trustee from his role as Plan Trustee. If the Plan Trustee or any successor Plan Trustee resigns, is removed, or is otherwise unable to continue to serve as Plan Trustee of the trust, then the successor Plan Trustee shall be such bank or trust company as shall be appointed by the resigning or removed Plan Trustee or successor Plan Trustee. Notice of the appointment of a successor Plan Trustee shall be filed with the Bankruptcy Court. Thereupon the successor Plan Trustee, without any further act, shall become fully vested with all of the rights, powers, duties and obligations of his predecessor.

6.09 Funding Expenses of the Plan Trust. In accordance with the Plan Trust Agreement, on the Effective Date, New HoldCo shall transfer to the Debtors who shall simultaneously transfer to the Plan Trust, the sum of \$500,000 (which sum is in addition to the purchase price for the Transferred Assets) in Cash to defray the costs and expenses of the Plan Trust, Plan Trustee and professionals retained by the Plan Trustee. The costs and expenses of the Plan Trust, including without limitation, the fees and expenses payable to the Plan Trustee and any professionals retained by the Plan Trustee, shall be paid out of such Cash, Plan Trust Assets and Plan Consideration and the Plan Trustee shall set aside reserves from such Case Plan Trust Assets and Plan Consideration as are adequate and appropriate to pay the costs and expenses of the Plan Trust.

6.10 Federal Income Tax Treatment.

(a) Division of Trust.

The Plan Trust will be divided into two funds, the Known Payment Fund and the Disputed Ownership Fund. Assets received by the Plan Trust which can be allocated to specific Creditors in known amounts will be allocated to the Known Payment Fund. All other assets received by the Plan Trust will be allocated to the Disputed Ownership Fund.

(b) Known Payment Fund.

1. For federal income tax purposes, the transfer of the Initial Plan Trust Assets and Future Plan Trust Assets to the Known Payment Fund of the Plan Trust will be treated by the Debtors and Plan Trust Beneficiaries as a transfer by the Debtors of the Initial Plan Trust Assets and Future Plan Trust Assets to the Plan Trust Beneficiaries, followed by a transfer of such assets by the Plan Trust Beneficiaries to the Plan Trust. When future transfers are made from the Disputed Ownership Fund to the Known Payment Fund, the transfer will also be deemed to be made to the Plan Trust Beneficiaries followed by a contribution by the Plan Trust Beneficiaries to the Known Payment Fund.

2. For federal income tax purposes, the Plan Trust Beneficiaries of the Known Payment Fund will be treated as the grantors, deemed owners and beneficiaries of the Plan Trust.

3. Since the Known Payment Fund of the Plan Trust will be a "grantor trust" as defined in Section 671 of the Internal Revenue Code, each Plan Trust Beneficiary will be required each taxable year to pick up its pro rata share of all taxable income recognized by the Plan Trust (irrespective of whether distributions are made by the Plan Trust to the Plan Trust Beneficiaries).

(c) Disputed Ownership Fund.

1. For federal income tax purposes, the transfer of the Initial Plan Trust Assets and the Future Plan Trust Assets to the Disputed Ownership Fund will be treated as a direct transfer of assets by the Debtors of the Initial Plan Trust Assets and the Future Plan Trust Assets to the Disputed Ownership Fund.

2. The Disputed Ownership Fund shall have an initial tax basis in its assets equal to the fair market value of such assets.

3. For federal income tax purposes, the Trustee shall elect to treat the Disputed Ownership Fund as a C Corporation. Any taxes payable with respect to taxable income allocable to the Disputed Ownership Fund will be paid out of the assets in such Disputed Ownership Fund.

- (d) Value of Assets. The Plan Trustee and the Debtors, in consultation with the Creditors' Committee, will determine the fair market value of all Initial Plan Trust Assets on the Effective Date and all Future Plan Trust Assets on the date such assets are transferred to the Plan Trust, and such determined fair market value shall be used by the Debtors, the Plan Trust, the Plan Trustee and the Plan Trust Beneficiaries for all federal income tax purposes.

ARTICLE 7

PROVISIONS FOR TREATMENT OF DISPUTED CLAIMS AND DISPUTED EQUITY INTERESTS

7.01 Objections to and Estimation of Claims. Prior to the Effective Date, the Debtors (and after the Effective Date, the Plan Trustee) may object to the allowance of Claims and Equity Interests with respect to which they/he disputes liability in whole or in part. All objections shall be litigated to a Final Order; *provided, however*, that the Debtors or the Plan Trustee (as the case may be) may compromise and settle, withdraw or resolve by any other method approved by the Bankruptcy Court, any objections to Claims or Equity Interests. Objections to Claims asserted by the Debtors but not resolved by a Final Order prior to the Effective Date shall be assumed as to prosecution, compromise and settlement by the Plan Trustee. In addition, certain contingent, unliquidated and/or disputed Claims have been asserted by various individuals and/or entities against certain of the Debtors, including but not limited to Claims for personal injury or property damage, and related claims for reimbursement, contribution or indemnification. The Debtors and the Plan Trustee may, at any time, request that the Bankruptcy Court estimate any of the contingent Claims pursuant to section 502(c) of the Bankruptcy Code regardless of whether the Debtors have previously objected to such Claim. Unless otherwise ordered by the Bankruptcy Court, the Debtors and Plan Trustee shall serve and file any objections to Claims and Equity Interests as soon as practicable, but in no event later than one-hundred and eighty (180) days after the Effective Date; *provided, however*, that the Plan Trustee may for cause seek from the Bankruptcy Court one or more extensions of such deadline.

7.02 Plan Reserves. On the Effective Date, after calculating Distributions to holders of Claims and Interests under the Plan, the Plan Trustee shall retain and set aside in the Reserve Fund an amount in cash sufficient to make all payments and Distributions which may be subsequently required on the Initial Cash Option Distribution Date and the Initial Distribution Date. Subsequent to the Effective Date, and at least ten (10) days prior to any future Distribution Dates other than the Initial Cash Option Distribution Date and the Initial Distribution Date, pursuant to the Purchase Agreements New HoldCo shall transfer to the Plan Trust that amount of Plan Consideration necessary in order to make the Distributions in respect of the Deferred Cash Payment required to be made on the next scheduled Distribution Date. The Purchase Agreements shall provide for

New HoldCo's obligation to fund the Deferred Cash Payment. Cash held by the Plan Trustee in the Reserve Fund shall be invested in accordance with the requirements contained in Section 7.05 of the Plan.

7.03 Subsequently Allowed Claims or Interests. Subsequent to the Initial Cash Option Distribution Date, if a Disputed Claim becomes an Allowed Claim, the Plan Trustee shall, on the next Distribution Date (or such earlier date as the Plan Trustee in his sole discretion may determine), distribute to the Holder of such Allowed Claim that amount of Plan Consideration, in the form of either a Deferred Cash Payment from the Reserve Fund or New HoldCo Common Stock, in an amount equal to that which such Holder would have been entitled if such Allowed Claim had been an Allowed Claim on the Initial Distribution Date.

7.04 Disallowed Claims. Subsequent to the Initial Distribution Date, if a Disputed Claim or portion of a portion Claim shall become disallowed by a Final Order, the Plan Trustee shall transfer from the Reserve Fund to the Plan Trust's general funds an amount of Cash equal to the amount which would have been required to be distributed pursuant to Section 7.03 of the Plan had such disallowed Claim or portion of a Claim been an Allowed Claim.

7.05 Investment of Reserve Fund. Amounts held in the Reserve Fund shall be invested by the Plan Trustee in accordance with section 345 of the Bankruptcy Code or as otherwise permitted by the Confirmation Order or any other Final Order of the Bankruptcy Court.

7.06 Interest Earnings. On the last day of each calendar month after a Distribution Date, the Plan Trustee shall transfer to the general funds of the Plan Trust all interest earned on the Reserve Fund since the last day of the preceding calendar month.

7.07 Payments and Distributions on Disputed Claims. No partial payments and no partial Distributions shall be made with respect to a Disputed Claim until the resolution of such disputes by settlement or Final Order. After a Disputed Claim becomes an Allowed Claim, the holder of such Allowed Claim shall receive all payments and Distributions to which such holder is then entitled under the Plan on the appropriate Distribution Date.

ARTICLE 8 RECORD HOLDERS OF CLAIMS; CLAIMS BASED ON INSTRUMENTS OR SECURITIES

8.01 Record Holders of Claims. Except as otherwise provided herein, the Debtors and the Plan Trustee shall be entitled to treat, as the sole holder of any Claim, the entity reflected in the claim records for the Debtors on the Distribution Record Date. If there is any dispute regarding the identity of the person entitled to receive notice, payment or Distribution in respect of a claim or interest under the Plan, no payment or Distribution need be made in respect of such claim or interest until the dispute is resolved by the Bankruptcy Court pursuant to a Final Order.

8.02 Surrender of Pre-Petition Notes. To the extent any holder of a claim arising under the Pre-Petition Notes has possession of a Pre-Petition Note, such holder shall surrender its

Pre-Petition Note(s) to the Pre-Petition Note Indenture Trustee. Unless the Debtors and the Pre-Petition Note Indenture Trustee agree otherwise, no distribution hereunder shall be made to or on behalf of any such holder unless and until such Pre-Petition Note is received by the Pre-Petition Note Indenture Trustee, or the loss, theft or destruction of such Pre-Petition Note Claim is established to the satisfaction of the Pre-Petition Note Indenture Trustee. In the event such Pre-Petition Note is held in the name of, or by a nominee of, the Depository Trust Company, the Debtors shall seek the cooperation of the Depository Trust Company in facilitating distributions. Notwithstanding any provision contained in this Plan to the contrary, the distribution provisions contained in the Pre-Petition Note Indenture shall continue in effect to the extent necessary to authorize the Pre-Petition Note Indenture Trustee to (i) receive and distribute to the holders of Allowed Pre-Petition Note Claims distributions pursuant to this Plan on account of Allowed Pre-Petition Note Claims and (ii) assert its charging lien in accordance with Section 2.03, and shall terminate completely upon completion of all such distributions.

8.03 Lost Instruments. Unless the Debtors agree otherwise, any holder of a Pre-Petition Note Claim that had had possession of a Pre-Petition Note that has been lost, stolen, mutilated or destroyed shall, in lieu of surrendering such Pre-Petition Note as provided in this Article 8, deliver evidence reasonably satisfactory to the Pre-Petition Note Indenture Trustee, of the loss, theft, mutilation or destruction of such Pre-Petition Notes. Upon compliance with this section by a holder of a Pre-Petition Note Claim, such holder shall, for all purposes under the Plan, be deemed to have surrendered its Pre-Petition Note.

8.04 Unsurrendered Instruments. Any holder of a Pre-Petition Note Claim who is required to surrender its Pre-Petition Note under Section 8.02 above and who has not surrendered, or been deemed to have surrendered, its Pre-Petition Notes within one (1) year after the Confirmation Date shall receive no Distributions on such Claim under the Plan and shall be forever barred from asserting any claim thereon against the Debtors or their estates. Thereupon, the Pre-Petition Note Indenture Trustee shall return to New HoldCo the portion of the New HoldCo Common Stock distributed to it pursuant to Article 4 of the Plan allocable to such non-surrendering holders of Pre-Petition Note Claims. Upon the return of such New HoldCo Common Stock by the Pre-Petition Note Indenture Trustee, the Pre-Petition Note Indenture Trustee and the Plan Trustee shall have no further responsibility regarding the Distributions otherwise required to be made by it pursuant to Article 4 of the Plan with respect to such holder.

ARTICLE 9

CONDITIONS TO CONFIRMATION AND EFFECTIVENESS OF THE PLAN

9.01 Conditions to Effectiveness. The effectiveness of the Plan shall be subject to, and conditioned upon, (i) the Confirmation Order becoming a Final Order; (ii) no request for revocation of the Confirmation Order under section 1144 of the Bankruptcy Code having been made or, if made, remaining pending; (iii) closing of the transactions contemplated by the Purchase Agreements and the transfer to the Debtors by New HoldCo of the Plan Consideration; (iv) closing and funding of the Exit Financing Facilities; (v) formation of New HoldCo and NewCos and the receipt by them of any and all regulatory approvals and all other material

approvals, permits, authorizations, consents, licenses, and agreements from other third parties necessary or appropriate to permit the transactions contemplated by the Plan and any related agreements and to permit New HoldCo and NewCos to carry on their business after the Effective Date; (v) execution and delivery of the Plan Trust Documents; (vi) formation of the EP Custodial Trust and Funding of the Custodial Trust Accounts; (vii) the Bankruptcy Court's determination of the amount of the Funding being acceptable to the Debtors, the Creditors' Committee and the Majority Noteholders; and (viii) all other actions and documents necessary to implement the Plan shall have been effected or executed.

9.02 Additional Conditions. In addition to the approvals required herein and unless otherwise provided for in the Plan, all agreements and related documents entered into in connection with the Plan and upon which the Plan is premised, including, without limitation, the Confirmation Order, shall be satisfactory to the Debtors, the Creditors' Committee and the Majority Noteholders.

9.03 Effect of Failure of Conditions. Notwithstanding entry of the Confirmation Order, if each of the conditions set forth in Section 9.01 of the Plan has not been satisfied or duly waived by the Debtors and the Creditors' Committee within 60 days after the Confirmation Date, then upon motion by the Debtors or any party in interest made before the time that each of the conditions has been satisfied or duly waived, the order confirming the Plan may be vacated by the Bankruptcy Court; *provided, however*, that notwithstanding the filing of such a motion, the Confirmation Order shall not be vacated if each of the conditions set forth in Section 9.01 of the Plan is either satisfied or duly waived by the Debtors and the Creditors' Committee before the Bankruptcy Court enters an order granting the relief requested in such motion. If the Confirmation Order is vacated pursuant to this Section 9.03 of the Plan, the Plan shall be void and of no effect.

9.04 Notice of Effective Date. The Debtors shall provide notice of the Effective Date of the Plan in accordance with the Bankruptcy Rules and orders of the Bankruptcy Court.

ARTICLE 10 EXECUTORY CONTRACTS

10.01 Assumption of Executory Contracts and Unexpired Leases. Any and all unexpired leases and executory contracts of the Debtors not expressly rejected by the Debtors pursuant to order of the Bankruptcy Court entered on or before the Confirmation Date, not identified on the Exhibit to the Plan Supplement pursuant to Section 10.04 of the Plan and to be filed with the Bankruptcy Court and served on affected parties by no later than ten (10) days prior to the Voting Deadline or as to which a motion for rejection is pending but undetermined as of such date and is subsequently approved by order of the Bankruptcy Court, shall be deemed to constitute part of the Transferred Assets and shall be deemed assumed by the Debtor party to such unexpired lease or executory contract and assigned to the applicable NewCo pursuant to the Purchase Agreements and the provisions of sections 365 and 1123 of the Bankruptcy Code upon the Effective Date.

10.02 Indemnification. Pursuant to Section 5.03 of the Plan, the indemnification obligations of the Debtors to their officers, directors and employees will be assumed and assigned to New HoldCo and NewCos.

10.03 Cure of Defaults on Assumed Contracts. The Debtors believe that, except as otherwise specifically set forth in the exhibit to be filed with the Plan Supplement, they are current in the performance of the executory contracts and unexpired leases to be assumed and assigned under the Plan. As such, the Debtors have determined that there are no amounts other than those set forth on the exhibit to be filed with the Plan Supplement to be paid as a condition to assumption and assignment of the executory contracts and unexpired leases under section 365(b) of the Bankruptcy Code.

- (a) Any objection to the assumption and assignment of any executory contract or unexpired lease and any proof of claim asserting that there are amounts or defaults that must be paid or cured as a condition to the assumption of any executory contract or unexpired lease must be filed with the Bankruptcy Court and delivered to the attorneys for the Debtors on or before the date and time set by the Bankruptcy Court as the last date and time on which to file and deliver objections to the confirmation of the Plan.
- (b) The holder of any such objections or cure claim shall be forever estopped from asserting such objection or claim if not so timely filed and delivered and the cure amount, if any, set forth on the exhibit to be filed with the Plan Supplement shall be binding on such holder and shall represent the only amount payable by the Debtors under section 365(b) of the Bankruptcy Code in connection with the assumption and assignment of such contract or lease. The Debtors reserve the right to reject any executory contract or unexpired lease with respect to which any such objection or claim is filed.
- (c) The Bankruptcy Court will resolve any such objection at the hearing on the confirmation of the Plan. Any such cure claim shall be treated as a disputed administrative expense under the Plan and shall be reviewed and, where appropriate, objected to by the Debtors and thereafter resolved in accordance with the Bankruptcy Code and the Bankruptcy Rules.
- (d) Any unpaid amounts or uncured defaults that must be paid or cured as a condition of assumption under section 365(b) of the Bankruptcy Code, will be paid by the Debtors, or the Plan Trustee on or after the Effective Date, provided the amount of such claim has been determined by a Final Order. A determination by the Bankruptcy Court of the amount of such a Claim will bar the assertion of any additional Claim that was or could have been asserted for defaults or unpaid amounts under such executory contract or unexpired lease.

10.04 Executory Contracts Expressly Rejected. Set forth on the exhibit to be filed with the Plan Supplement is a schedule of those executory contracts or unexpired leases that Debtors intend to reject and which shall be deemed to be rejected upon confirmation of the Plan.

10.05 Approval of Assumption or Rejection. Entry of the Confirmation Order shall constitute: (i) approval, pursuant to section 365(a) of the Bankruptcy Code, of the assumption by the applicable Debtor and assignment to the applicable NewCo of the executory contracts and unexpired leases assumed pursuant to Section 10.01 of the Plan; and (ii) approval pursuant to section 365(a) of the Bankruptcy Code, of the rejection of executory contracts and unexpired leases rejected in accordance with Section 10.04 of the Plan. Notwithstanding anything contained herein to the contrary, the Debtors hereby retain the right to add or delete any executory contract or unexpired lease that is designated for assumption or rejection at any time prior to the Confirmation Date, upon notice to parties affected by such change.

10.06 Bar Date. All proofs of claim with respect to claims arising from the rejection of any contract or unexpired lease, other than claims arising from rejection for which a bar date has already been set by prior order of the Bankruptcy Court, shall be filed with the Bankruptcy Court and served on counsel for the Debtors no later than thirty (30) days after the Confirmation Date. Any claim not filed within such date shall be forever barred from assertion against the Debtors and their respective estates.

ARTICLE 11 ORGANIZATION OF NEW HOLDCO

11.01 Articles of Incorporation and Code of Regulations. The Articles of Incorporation and Code of Regulations of New HoldCo shall be as set forth in the exhibit to be filed with the Plan Supplement.

11.02 Board of Directors. The initial Board of Directors of New HoldCo shall consist of the persons identified in materials filed with the Bankruptcy Court no later than the Exhibit Filing Date.

11.03 Corporate Actions. On the Effective Date, the operation of New HoldCo shall become the general responsibility of its Board of Directors, subject to, and in accordance with, its Articles of Incorporation and Code of Regulations.

ARTICLE 12 DISCHARGE OF ALL CLAIMS AND INTERESTS AND RELEASES

12.01 Discharge and Exculpation.

(a) Except as otherwise provided herein or in the Confirmation Order, all treatment provided under this Plan, regardless of whether any property shall have been distributed or retained pursuant to this Plan on account of Claims and Equity Interests upon the Effective Date, shall be in exchange for, and in complete satisfaction, settlement, discharge, and release of all Claims and Equity Interests to the fullest extent permitted by Bankruptcy Code section 1141, including but not limited to all debts of the kind specified in sections 502(g), 502(h), or 502(i) of the Bankruptcy Code, whether or not (i) a Proof of Claim based upon such debt is filed or

deemed filed under section 501 of the Bankruptcy Code; (ii) a Claim based upon such debt is Allowed under section 502 of the Bankruptcy Code; or (iii) the holder of a Claim based upon such debt accepted the Plan; and all Equity Interests shall be terminated.

(b) Except as otherwise expressly provided in this Plan, all holders of Claims and Equity Interests are permanently enjoined, from and after the Effective Date, from (i) commencing or continuing in any manner any action or other proceeding of any kind on any Claim or Equity Interest discharged or released pursuant to Section 12.01(a) above against the Debtors, their Estates, New HoldCo, the NewCos, the Plan Trust, the Plan Trustee, the Custodial Trust, the Custodial Trustee, any of their respective assets or properties or any of their respective subsidiaries or successors; (ii) the enforcement, attachment, collection or recovery by any manner or means of any judgment, award, decree or order relating to any Claim or Equity Interest discharged or released pursuant to Section 12.01(a) above against the Debtors, their Estates, New HoldCo, the NewCos, the Plan Trust, the Plan Trustee, the Custodial Trust, the Custodial Trustee, their respective assets or properties or any of their respective subsidiaries or successors; (iii) creating, perfecting, or enforcing any encumbrance of any kind relating to any Claim or Equity Interest discharged or released pursuant to Section 12.01(a) above against the property or interests in property of the Debtors, their Estates, New HoldCo, the NewCos, the Plan Trust, the Plan Trustee, the Custodial Trust, the Custodial Trustee, any of their respective assets or properties or any of their respective subsidiaries or successors; and (iv) declaring a worthless stock deduction in respect of any Equity Interests for any taxable year ending prior to the Effective Date, transferring Equity Interests or taking any other action which would adversely effect the Debtors' NOLs or other tax attributes.

(c) Except as otherwise specifically provided by this Plan or the Confirmation Order, the confirmation of this Plan (subject to the occurrence of the Effective Date) shall act as a discharge and release of all Claims and causes of action (including without limitation, causes of action of a trustee and debtor in possession under the Bankruptcy Code) of the Debtors and their Estates, whether known or unknown, and excluding any Claims or causes of action arising out of gross negligence, bad faith, or willful misconduct, against: (i) their present and former directors, shareholders and affiliated Entities, officers and employees (other than for money borrowed from any of the Debtors by such shareholders, directors, officers or employees or any money owed to the Debtors by such shareholders, officers, representatives, directors or employees that is evidenced by a note, debenture or other instrument), agents, attorneys, advisors, accountants, financial advisors, investment bankers, advisers, affiliates, successors and assigns (ii) the Committee and its respective present and former members, affiliates, officers, directors, shareholders, attorneys, accountants, financial advisors, investment bankers, advisory affiliates, employees, agents, representatives, successors and assigns; (iii) the Senior Replacement DIP Agent, Junior Replacement DIP Agent, and Senior and Junior Replacement DIP Lenders and their respective present and former affiliates, officers, directors, partners, shareholders, attorneys, accountants, financial advisors, investment bankers, advisory affiliates, employees, agents, representatives, successors and assigns; (iv) the Pre-Petition Note Indenture Trustee and its respective present and former members, affiliates, officers, directors, shareholders, attorneys, accountants, financial advisors, investment bankers, advisory affiliates, employees, agents, representatives, successors and assigns, and (v) any Entity claimed to be liable derivatively through any of the foregoing.

(d) **Exculpation.** Upon the substantial consummation of the Plan, except as provided in the Plan or the Confirmation Order, all Entities shall be precluded and enjoined from asserting against or prosecuting, and shall be deemed to have released the Debtors, their Estates, Committee, New HoldCo, the NewCos, Plan Trust, Plan Trustee, Custodial Trusts, Custodial Trustee and their present and former directors, shareholders, officers, members, representatives and employees (other than for money borrowed from the Debtors by such shareholders, directors, officers, members, representatives or employees or any money owed to the Debtors by such shareholders, officers, directors, members, representatives or employees that is evidenced by a note, debenture or other instrument), agents, attorneys, advisors, accountants, financial advisors, lenders and investment bankers, and their property from (and to have waived and discharged) any Claim, debt, right, cause of action, liabilities or equity interest relating to any act or omission of or relating to the Debtors in connection with, related to, or arising out of, the Chapter 11 Cases, the pursuit of confirmation of the Plan, the consummation of the Plan or the administration of the Plan or the distribution of property under the Plan, except for willful misconduct or gross negligence, *provided, however*, that such exculpation as to current and former officers, directors, employees, advisors, agents, attorneys, accountants, financial advisors or investment bankers of the Debtors shall be expressly limited to Claims and causes of action based upon acts or omissions of such Persons or Entities in their capacity as officers, directors, employees, advisors, or Professionals of the Debtors and shall in no event be applicable to (i) money borrowed or obligations incurred by such officers, directors, employees, advisors or professionals of the Debtors; (ii) employment contracts; (iii) consulting contracts; (iv) the receipt of transfers from the Debtors, directly or indirectly, in connection with acquisitions of subsidiaries, business enterprises or other material assets; and (v) Claims or causes of action arising out of gross negligence, bad faith, or willful misconduct; and *provided further, however*, that nothing in this Section 12.01(d) shall be construed to modify or alter the liability of the Debtors or their Estates for any Allowed Administrative Claims or any Administrative Claims that have been asserted pending a final determination as to the allowance of such Administrative Claims.

12.02 **Injunction Against Asserting Claims or Interests.** On and after the Effective Date, all Persons are permanently enjoined from commencing or continuing in any manner any action or proceeding (whether directly, indirectly, derivatively or otherwise) on account of or respecting any claim, debt, right or cause of action of the Debtors for which the Debtors, Plan Trustee or Custodial Trustee, as the case may be, retain sole and exclusive authority to pursue in accordance with Sections 5.12 and 5.15 of the Plan. Nothing in the Plan or Confirmation Order shall release, discharge, enjoin, or preclude any liability to a governmental unit under police and regulatory laws to the extent that any entity would be subject to liability as an owner or operator of real property after the Effective Date.

12.03 **Injunction Against Interference with Plan.** Upon the entry of the Confirmation Order, all holders of Claims and Equity Interests and other parties in interest, along with their respective present or former employees, agents, officers, directors or principals, shall be enjoined from taking any actions to interfere with the implementation or consummation of the Plan.

12.04 **Other Liabilities.** Nothing in the Plan (including, without limitation, Article 5), Purchase Agreements or Confirmation Order shall (a) release, discharge, enjoin, or preclude

(i) any Person who filed a written objection to confirmation of the Plan within the time period provided for in the Order Approving Disclosure Statement in Support of Debtors' Second Amended Joint Plan of Reorganization, [doc. no. 1625] or any Governmental Unit (as defined in the Bankruptcy Code) from asserting against any party any Claim arising after the Effective Date of the Plan; *provided, however*, that any such Person entitled to assert any such Claim shall not be precluded from asserting such Claim or be prejudiced solely by virtue of the preclusion of any other Person from asserting a Claim by any provisions of the Plan or Confirmation Order; or (ii) any liability or cause of action under police or regulatory laws that any Governmental Unit may have that is not within the definition of "claim" under 11 U.S.C. § 101(5); or (b) expand, limit, affect or restrict in any manner whatsoever any party with respect to defenses against, or rights with respect to, any Claims of the type set forth in Section 12.04(a) above.

ARTICLE 13 RETENTION OF JURISDICTION

13.01 Retention of Jurisdiction. The Bankruptcy Court shall retain exclusive jurisdiction of these proceedings for the following purposes, *inter alia*:

- (a) to determine any and all applications, adversary proceedings and contested matters pending as of the Effective Date and to determine all Estate Causes of Action;
- (b) to determine any and all objections to the allowance of Claims and Equity Interests;
- (c) to determine any and all applications for allowance of compensation and reimbursement of expenses;
- (d) to determine any and all controversies and disputes arising under or in connection with the Plan, the Plan Trust, the EP Custodial Trust and such other matters as may be provided for in the Confirmation Order;
- (e) to effectuate payments under and performance of the provisions of the Plan and Plan Trust;
- (f) to enter such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, reversed, revoked, modified or vacated;
- (g) to determine the Debtors' or Plan Trust's motion, if any, to modify the Plan in accordance with section 1127 of the Bankruptcy Code;
- (h) to issue such orders in aid of execution of the Plan, to the extent authorized by section 1142 of the Bankruptcy Code;

- (i) to consider any modifications of the Plan, to cure any defect or omission, or to reconcile any inconsistency in any order of the Bankruptcy Court, including, without limitation, the Confirmation Order;
- (j) to hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of the Plan and any related documents;
- (k) to hear and determine any issue for which the Plan or any related document requires a Final Order of the Bankruptcy Court;
- (l) to enter a final decree closing the Chapter 11 Case;
- (m) to hear and determine motions for the sale of all or any part of the Debtors', Plan Trust's or EP Custodial Trust's assets, free and clear of all liens, claims and encumbrances in accordance with sections 363 and 1123(a)(5) of the Bankruptcy Code; and
- (n) to determine any other matter not inconsistent with chapter 11 of the Bankruptcy Code.

ARTICLE 14 MISCELLANEOUS

14.01 **Headings.** The headings used in the Plan are inserted for convenience only and neither constitutes a portion of this Plan nor in any manner affect the construction of the provisions of this Plan.

14.02 **Severability.** Should any provision in the Plan be determined to be unenforceable following the Effective Date, such determination shall in no way limit or affect the enforceability and operative effect of any and all other provisions of the Plan.

14.03 **Governing Law.** Except to the extent that the Bankruptcy Code or other federal law is applicable, the rights, duties and obligations arising under the Plan shall be governed by, and construed and enforced in accordance with, the laws of the State of Ohio.

14.04 **Successors and Assigns.** The rights, duties and obligations of any Person named or referred to in the Plan shall be binding upon, and shall inure to the benefit of, the successors, heirs and assigns of such Person.

14.05 **Pre-Petition Note Indenture Trustee as Claim Holder.** Consistent with Bankruptcy Rule 3003(c), the Debtors shall recognize a Proof of Claim filed by the Pre-Petition Note Indenture Trustee in respect of the Pre-Petition Note Claims. Accordingly, any Claim, proof of which is filed by the registered or beneficial holder of a Claim, may be disallowed as duplicative of the Claim of the Pre-Petition Note Indenture Trustee, without any further action or Bankruptcy Court.

14.06 Revocation of the Plan. The Debtors reserve the right to revoke and withdraw the Plan at any time prior to the Confirmation Date. If the Debtors revoke or withdraw the Plan, then the Plan shall be deemed null and void and nothing contained herein shall be deemed to constitute a waiver or release of any claims by or against the Debtors, the Creditors' Committee or any other person or to prejudice in any manner the rights of the Debtors, the Creditors' Committee or any person in any further proceedings involving the Debtor or the Creditors' Committee.

14.07 Effectuating Documents; Further Transactions; Timing. Each of the officers of the Debtors shall be deemed to be authorized under resolutions of the respective Debtors' boards of directors to execute, deliver, file or record such contracts, instruments, releases and other agreements or documents, and to take such action(s) as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan and any securities issued pursuant to the Plan. All transactions that are required to occur on the Effective Date under the terms of the Plan shall be deemed to have occurred simultaneously.

14.08 Exemption from Transfer Taxes. Pursuant to section 1146(c) of the Bankruptcy Code, none of (i) the issuance transfer or exchange of any security under, in furtherance of, or in connection with, this Plan, (ii) the assignment or surrender of any lease or sublease, or the delivery of any deed or other instrument of transfer under, in furtherance of, or in connection with, this Plan, including any deeds, bills of sale or assignments executed in connection with any disposition of assets contemplated by this Plan (including real and personal property), (iii) the disposition and/or encumbrance of assets in connection with any transactions contemplated hereunder (including any subsequent sale of property under Sections 5.12 and 6.06 or other provisions of the Plan, including, without limitation, any sale by the Plan Trust or EP Custodial Trust), or (iv) any transfer of the Transferred Assets to New HoldCo or any NewCo, shall be subject to any stamp, real estate transfer, mortgage recording sales, use or other similar tax.

14.09 Compliance with Laws. Nothing in this Plan nullifies any liability to a governmental unit under applicable police or regulatory statutes or regulations that any entity would have as the owner or operator of property after the Effective Date.

14.10 Binding Effect. The Plan shall be binding upon, and shall inure to the benefit of the Debtors, the holders of all Claims and Equity Interests and their respective successors and assigns.

14.11 Modification of Payment Terms. The Debtors and the Plan Trust reserve the right to modify the treatment of any Allowed Claim in any manner adverse only to the holder of such Claim at any time after the Effective Date upon the prior written consent of the holder whose Allowed Claim treatment is being adversely affected.

14.12 Notices. Any notice required or permitted to be provided under the Plan shall be in writing and served by: (a) certified mail, return receipt requested, postage prepaid; (b) hand delivery; or (c) reputable overnight carrier service, freight prepaid, to be addressed as follows:

If to the Debtors, to:

Stephen D. Lerner
Squire, Sanders & Dempsey L.L.P.
312 Walnut Street
Suite 3500
Cincinnati, OH 45202-4036
Fax: (513) 361-1201

Attorneys for the Debtors

With copies to:

Thomas R. Kreller
Milbank, Tweed, Hadley & McCloy LLP
601 South Figueroa Street, 30th Floor
Los Angeles, CA 90017-5735
Fax: (213) 629-5063

Attorneys for the Official Committee of Unsecured Creditors

14.13 Dissolution of Creditors' Committees. Except as otherwise provided in any order of the Bankruptcy Court, on the Effective Date, the Creditors' Committee shall be dissolved and the members of any such committees shall thereupon be released and discharged of and from all further authority, duties, responsibilities and obligations related to and arising from and in connection with the Chapter 11 Cases, except for the preparation and filing of applications for payment of professionals.

14.14 Post-Confirmation Fees And Reports. Unless otherwise ordered by the Bankruptcy Court, the Debtors shall be responsible for the timely payment of all fees incurred pursuant to section 1930 of title 28 to the United States Code. Unless otherwise ordered by the Bankruptcy Court, the Plan Trustee also shall file with the court, and serve on the U.S. Trustee, a quarterly financial report for each quarter (or portion thereof) that the Chapter 11 Cases remain open, in a format prescribed by the U.S. Trustee in accordance with the guidelines of the Office of the U.S. Trustee.

Date: Cincinnati, Ohio
May 31, 2006

EAGLEPICHER HOLDINGS, INC.

By: /s/ Bert Iedema
Name: Bert Iedema
Title: Chief Executive Officer and President

EAGLEPICHER INCORPORATED

By: /s/ Stuart B. Gleichenhau
Name: Stuart B. Gleichenhau
Title: Chairman, President and Chief Executive Officer

EAGLEPICHER AUTOMOTIVE, INC.

By: /s/ Stuart B. Gleichenhau
Name: Stuart B. Gleichenhau
Title: Vice President

CARPENTER ENTERPRISES LIMITED

By: /s/ Stuart B. Gleichenhau
Name: Stuart B. Gleichenhau
Title: Vice President

DAISY PARTS, INC.

By: /s/ Stuart B. Gleichenhau
Name: Stuart B. Gleichenhau
Title: Vice President

**EAGLEPICHER FILTRATION & MINERALS,
INC.**

By: /s/ Stuart B. Gleichenhau
Name: Stuart B. Gleichenhau
Title: Vice President

**EAGLEPICHER PHARMACEUTICAL
SERVICES, LLC**

By: /s/ Steven E. Westfall
Name: Steven E. Westfall
Title: President

EAGLEPICHER TECHNOLOGIES, LLC

By: /s/ Steven E. Westfall
Name: Steven E. Westfall
Title: President

SUMMARY OF EXHIBITS

Exhibit	Document	Plan Reference(s)
A	Definitions	1.01
B	Asset Transfers	5.02
C	Designated Property and Transitional Property	5.12
D	NewCos	Definitions

To the extent that any of the forgoing Exhibits are not filed with the Plan, such Exhibits shall be filed with the Plan Supplement.